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U.S. MARSHALS SERVICE BUDGET AUTHORIZATION FOR FISCAL YEAR 1987

HEARING

BEFORE THE

SUBCOMMITTEE ON SECURITY AND TERRORISM

OF THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

NINETY-NINTH CONGRESS

SECOND SESSION

ON

U.S. MARSHALS SERVICE BUDGET AUTHORIZATION FOR FISCAL YEAR 1987 AND A REVIEW OF THE OVERALL OPERATIONS OF THE MARSHALS SERVICE FOR CALENDAR YEAR 1985

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U.S. MARSHALS SERVICE BUDGET AUTHORIZATION FOR FISCAL YEAR 1987

WEDNESDAY, JUNE 25, 1986

U.S. SENATE,
SUBCOMMITTEE ON SECURITY AND TERRORISM,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:06 a.m., in room SD-226, Dirksen Senate Office Building, Hon. Jeremiah Denton (chairman of the subcommittee) presiding.

Staff present: Joel Lisker, chief counsel and staff director; Ron Lemay, staff assistant; and Fran Wermuth, chief clerk.

OPENING STATEMENT OF HON. JEREMIAH DENTON, A U.S. SENATOR FROM THE STATE OF ALABAMA; CHAIRMAN, SUBCOMMITTEE ON SECURITY AND TERRORISM

Senator DENTON. Good morning. This hearing will come to order.

The subcommittee meets today to hold an open oversight hearing on the U.S. Marshals Service budget authorization for fiscal year 1987 and a review of the overall operations of the Marshals Service for calendar year 1985.

We would like to welcome the Honorable Stanley E. Morris, Director of the U.S. Marshals Service, who will be testifying this morning on a number of issues, including Senate bill 2044, which is the U.S. Marshals Service Act of 1985.

We are very interested in learning more about the overall activities of the Marshals Service, its successes, especially in the FIST operations, and its disappointments, during the past year.

We wish to identify areas where the Marshals Service has been vulnerable and how we can, with the full Judiciary Committee, be of assistance in making it less vulnerable in the future.

We are also interested in hearing your comments pertaining to S. 2044, which establishes the U.S. Marshals Service as a bureau within the Department of Justice. This proposal by the administration has been introduced by Senators Thurmond, Biden, Laxalt, and myself.

This will not be the only hearing on that bill. There are a number of interests involved and we will have aired all of those interests before we finish hearings on the subject.

As you are well aware, Mr. Director, our Nation functions within a strict code of justice administered by a court system that touches all levels of our Nation's Government. Often, prosecutorial and judicial decisions may be unpopular and give rise to further criminal acts, and it is in this environment that the Marshals Service has to be at its very best in providing the protection required to ensure that the integrity of our system of justice survives all attempts to disrupt it.

During its nearly 200-year history, the Marshals Service has had substantial responsibility within our judicial system for the apprehension of criminals and transportation of Federal prisoners.

Today, that responsibility is certainly heightened with the ever-increasing number of violent and other crimes being committed. Large numbers of tax dollars are being spent to apprehend criminals.

And it is equally important that we provide sufficient funding to ensure that criminals are not permitted to continue their illegal activities after their apprehension and/or conviction.

The Marshals Service, as we recognize, has been doing an outstanding job in that area, and this subcommittee stands ready to assist the Service in any way possible to ensure that it will continue to do so.

You have two outstanding fugitive programs, Mr. Director; first, the fugitive apprehension program under which, during the past year, the Marshals Service arrested or located more than 12,000 fugitive felons, which included the arrest of 14 of the 15 most wanted fugitives by the Service.

Second, working together with State, county, and local law enforcement agencies in Fugitive Investigative Strike Team operations—FIST, referred to earlier—the Marshals Service participated in the arrest of 14,770 fugitives in the 5-year history of the program.

The most recent FIST operation, which concluded this past April, resulted in the arrest of 3,506 fugitive felons. Of these, 45 were wanted for murder, 22 for attempted murder, 82 for rape, 712 for robbery or burglary, 25 for kidnaping, and 734 for major narcotics violations.

These achievements are indeed outstanding, as is your record for judicial security. The Marshals Service is responsible for providing protection for more than 1,700 Federal judges and magistrates, as well as for other court officials, jurors, and witnesses. Last year, there were 240 verified threats against members of the Federal judiciary, which is an increase of 57 percent over the previous year.

The Marshals Service prisoner custody and transportation operations conducted more than 125,000 prisoner movements and provided housing for approximately 6,000 unsentenced prisoners each day in nearly 800 Federal, State, and local jails throughout the Nation.

As you yourself recently noted, and I quote:

> The most significant accomplishment can be seen in terms of what did not happen. No prisoner successfully escaped from a courtroom, no threatened judicial officer was harmed, and no judicial proceeding was disrupted to the extent that due process was denied.

Under its witness relocation and protection program, the Marshals Service protects those persons who, at great risk to themselves and their families, agree to testify against violent criminal defendants.

This vitally important program must be continued and strengthened, and its credibility maintained, if we are to continue to expect people to come forward and testify in those cases.

I would imagine that with the increased narcotics problem and the tremendous amount of financial inducement involved, the risk in terms of those threats is heightened and continues to heighten.

The cost of providing all these services during trials involving organized crime, drug trafficking and terrorism-related crimes, can be enormous. I am advised that one trial alone can cost the U.S. Government several hundred thousand dollars.

Such expense, while high, simply must be borne in some cases in order to ensure the orderly administration of justice which our society and constitutional traditions demand.

In this connection, I was pleased to learn that the Marshals Service is managing a program which is resulting in significant income to the Government. The National Asset Seizure and Forfeiture Program involves the management and disposal of seized and forfeited properties generated from illegal civil and criminal acts.

The Government of the United States realized over $19.8 million from the sale of such property by the Marshals Service in fiscal year 1985, plus an additional $4 million that was returned to State and local governments.

This represents an important contribution ultimately to the people who pay the bills, the American taxpayers, and the subcommittee wants to ensure that you have the manpower to continue that successful management of the program.

The subcommittee is interested in the performance of the Marshals Service's Special Operations Group, a highly trained cadre of volunteers with the ability to respond to emergency situations. We are also interested in learning about the operations and capabilities of the Service's Threat Analysis Group.

I would conclude my opening remarks by emphasizing that the Marshals Service has the admiration and respect of everyone on this subcommittee and we are pleased with the progress and the successes that the Service has enjoyed over the past year.

I believe the services rendered by the marshals over the almost two centuries of your existence have, on the one hand, been made legendary and, on the other hand, more recently been unknown to the general public, because you have done so many tasks, some of them at your own initiative, and some of them because you have been made sort of the utility man on the team.

This hearing will highlight some of the remarkable feats which you have been performing.

We look forward to your remarks, Mr. Director, and we welcome you.

STATEMENT OF STANLEY E. MORRIS, DIRECTOR, U.S. MARSHALS SERVICE, DEPARTMENT OF JUSTICE

Mr. Morris. Thank you very much, Mr. Chairman. Thank you particularly for a very comprehensive overview of our activities, as well as your kind words. I do not think that I really can add much to the overview you have just provided.

I do have a written statement which I would like to provide for the record. However, I would prefer just to make a few general remarks now and then turn to a questions, if that is agreeable with you.

Senator DENTON. Of course.

Mr. MORRIS. I would like to mention that with me I have my deputy director, John Twomey, and my associate director for operations, Mr. Howard Safir to assist me with any questions. I might not be able to handle.

I appreciate very much the opportunity that you have provided the U.S. Marshals Service to present an overview of our activities as they relate to the 1987 authorization process, as well as to S. 2044, the legislation that the President sent forward to the Senate some months ago.

I think this is a historic occasion. We could not recall an oversight hearing provided by the Judiciary Committee in the Senate in the memory of anyone currently working at Marshals Service headquarters. So this may, in fact, be a historic occasion as well as a very useful one.

Senator DENTON. We have no constitutional or congressional authority to have this oversight hearing other than that which was given to us by the chairman of the Judiciary Committee in his interest in exploring the possibility of your becoming a bureau.

Mr. MORRIS. I appreciate that.

As you pointed out in your opening remarks, we are an organization with a proud and long history, some 197 years, and in just a couple of years we will be celebrating our bicentennial.

We have had a critical role in the development of American history. As I tell our new graduates, we were there in the first 3 months after this country was created. George Washington selected the first marshals and they were the Federal presence, the only real Federal presence of a law enforcement nature, for decades afterwards and they assisted in making those former colonies that had recently accepted statehood become a nation.

We participated in the challenge of developing those States along the seaboard into a continentwide nation. It was the Marshals Service who were the critical law enforcement element as we moved forward into the West—at least from a Hollywood standpoint, our more legendary past.

We have continued to play a critical role in this century as well. However, the period now I believe represents the most difficult challenge facing the Federal criminal justice system that we have ever had; that is, the issue confronting us as a result of drug trafficking and the vast amounts of resources, as you pointed out in your statement, available to drug traffickers and the ability of terrorists and others to basically and fundamentally threaten the institutions of government.

The Marshals Service, therefore, is facing challenges more severe than those faced by the original marshals appointed by George Washington; or those who were first in the Dodge Cities and the Tucsons of the Old West.

As the President said last September at another historic occasion when he met with all the U.S. marshals at the White House, there is almost no activity in the Federal criminal justice system that does not in one way or another affect the U.S. marshal, from the time of initial arrest through the production of prisoners for the trial; including protection of witnesses and the protection and sequestration of jurors, all the way to the sentencing and the final delivery to the prison.

If, in fact, the defendant escapes at any point in that process, including out of prison, it remains the responsibility of the marshals to reapprehend him and bring him back to justice.

So I think we have an overview of the system that is unique, and one that I believe can make a valuable contribution both to this committee and to the Senate as we look at the kinds of problems that we are facing. I certainly will be more than willing to discuss the problems, as well as the successes, because we do bridge that gap not just within the executive branch, but that relationship which is so critical between the judiciary and the executive branch.

To some extent, S. 2044 attempts to rationalize that relationship which I think has been muddied a little bit with the passage of time.

We in the Marshals Service are working to keep pace with extraordinary changes. As I say, we are facing an assault on the Federal system unparalleled in American history.

If you look at the period of Prohibition in the twenties and thirties, it pales in comparison to what we face today. First of all, we have major international problems facing us, and then criminals have money available unlike any other time in our past—an ability, really, to threaten the very foundations of government if we are not ever vigilant.

We have an interesting scope; 483 judicial facilities are our responsibility to secure, along with the safety of 1,700 judicial officers. We man some 360 offices. We take 80,000 new prisoners into our custody every year; we move 73,000 prisoners annually, nearly one-third of them on our new small airline system.

Over 4,800 witnesses have been processed into the witness program, not including family members. We make, as you pointed out, over 10,000 fugitive arrests a year. Thousands of pieces of court process are served.

Threats against the judiciary, largely because of the drug trafficking, have risen by 50 percent every year since I have been Director, and the trials that we are handling not only are more numerous but more complex and more difficult than any time in our past.

As an example, just a few weeks ago, I was up in New York. We have 23 defendants, all with their own lawyers, in the pizza connection case; a half a dozen or so of those defendants in custody, the rest not.

That trial will probably last in excess of a year, day in, day out. It is very clear that many of the defendants are aware that if they are convicted in that trial, they will be immediately incarcerated and their chances of escape significantly reduced.

So every day, while it is tempting for us to look up at the ceiling or think about what we are having for dinner, our deputies face a challenge in that court room.

I believe, Mr. Chairman, that we have an outmoded statutory authority and we have some conflicting laws, and it was to that end that S. 2044 was forwarded. I appreciate very much your willingness to introduce it and, in part, begin the hearings on that important legislation.

It is intended to establish the Marshals Service as a bureau, clearly, within the executive branch. It is intended to eliminate some of the confusion regarding executive branch responsibilities.

Since 1789, for example, when a marshal vacancy occurred, pending the Senate confirmation process an interim appointment was made by the chief judge. Obviously, an executive branch official being appointed by a judicial official creates a confusion in the separation of powers. The legislation would return that interim appointment authority to the Attorney General, pending the normal confirmation process.

Also, it would specify a number of authorities to help us do our job better and more efficiently. There are some technical amendments that we are working on. There is some confusion in the drafting surrounding the fugitive authority, and Judge Webster and I have developed to a solution to that confusion. We provided that language to your staff.

We are also working with the judiciary about their concerns of a provision regarding attendance of marshals in civil proceedings and proceedings generally, and we are engaged in a process which I think will lead to a satisfactory conclusion.

One area that causes me the most—I am searching for a word here—I guess it causes me the most disappointment. Here is an agency that, in fact, is older than any other Federal law enforcement agency, and I believe more central to the functioning of the system of justice than any other Federal law enforcement agency. Yet, we still are not well understood. When the Gramm-Rudman automatic reductions went into effect in February and March, we were faced with a very difficult problem. We do not control our workload. The prisoners that come into our custody remain in our custody.

The trials that the judges set and the prisoners that come into our custody and the orders that need to be served are the responsibilities of the marshals, independent of, to some extent, the resources that we have.

So, pending in the Senate today is a supplemental to restore in large part the money that was taken out of the Marshals Service budget in March and is being returned in June in order for us to carry out what, in fact, are functions uncontrollable by us.

The U.S. attorneys, for example, can determine whether or not to prosecute. We do not make many decisions about our workload. Our workload is largely generated by the courts, by the investigative agencies, and by the prosecutors.

I am grateful that both Appropriations Committees have recognized that, and the supplemental request before the Senate this morning will restore some of those funds to enable us to continue to do our job.

The President's budget for 1987 and the authorization before this committee allow for an additional increase in resources, particularly in the area of fugitives and in judicial security. I think it is the minimum necessary to carry out our job.

Therefore, Mr. Chairman, as I said at the beginning, I think this probably is an historic hearing and I appreciate very much your willingness and leadership in giving us an opportunity to explain what it is we do and why we do it.

Thank you very much.

Senator DENTON. Thank you, Mr. Director.

Regarding the Gramm-Rudman-Hollings cuts, could you be more specific about their effect on the Marshals Service?

Mr. MORRIS. We do a great degree of our work on overtime; basically serving the needs of the judicial system. The Gramm-Rudman immediate cuts simply eliminated our ability to expend overtime.

On the surface, that does not appear to be a significant issue. But, in fact, our employees work long hours. The jail crisis in this country, which is very severe, is creating enormous problems not for just the Federal system, but for State and local governments. It has forced us to travel long distances in the production of prisoners.

Normally this means that if a judge wants to hold a trial at 9 in the morning, I have to send deputies off at 6 in the morning to transport the prisoners so that they are there for the trial.

With the elimination of our ability to spend overtime, we created an immediate adverse effect on the courts because they could no longer hold trials from 9 to 5. They were forced to begin holding trials from 10 to 3.

What that did was, in order to save a few dollars in the Marshals Service, cause extraordinary additional costs, and it delayed justice for the short period of time before the Appropriations Committees took some actions. That was the most immediate effect.

We also probably bent the rules a little bit. We had to close down to a large extent our fugitive operations. Whereas, as you pointed out in your opening statement, last year we made 14 arrests off of our top 15, we have made no arrests off of our top 15 in the last 5 months.

The reason for that is quite simple; we have had to direct our resources to the highest priority, which is ensuring that the courts can, in fact, function and that prisoners can be produced.

I think those problems have been resolved, but I think that they demonstrate a problem, which is that obviously the role that we play as an organization is not broadly understood.

A minor cutback—we only took a reduction of a little over $5 million, and in the large order of things that is not very much, but it caused a very real disruption and made a number of the members of the judiciary quite unhappy with me, but there was really little discretion I had.

Senator DENTON. How can the Marshals Service continue to operate—how would you describe their ability to, with those cuts? The fact that you have arrested none in your top 15 in the past months indicates that it is a fairly serious effect.

You have 360 offices to maintain, with a personnel ceiling of 2,600 full-time employees. Would you address that particular question?

Mr. MORRIS. Well, the President's budget for 1987 would provide us with another 100 deputies. We get a lot of our work done, quite candidly, because I think we work hard, work long hours and we are not very bureaucratic.

We also, probably more than any other agency in the Federal Government, not just law enforcement agencies, seek and receive an extraordinary amount of assistance from State and local governments, not just in the incarceration of our defendants, but assistance on major trials and assistance on working fugitive cases and the like.

I think, to some extent, that has helped us, plus generally the cooperation that we receive from the courts and from the prosecutors and from the other investigative agencies, because they recognize that we cannot do everything at the same time.

But I do not ever want to become very big, because I think one of our strengths is our size, and we like to work hard. The more people you have sometimes forces you to create your bureaucracies, and then you have got bureaucrats talking to bureaucrats.

There is nobody in this agency who is more than four reporting levels from me, and I think that is healthy.

Senator DENTON. I am not so sure that a lot of your effectiveness has not come from the fact that you have not had any oversight from Congress. I have seen us micromanage every other Federal agency, including the armed services, to the point where I believe if we just trust them and leave them alone, although they would make some mistakes, they would not be as suffocated as they are.

With our micromanagement and our requirements for reports, they have half of them writing reports and the other half worrying about it. [Laughter.]

Mr. MORRIS. Once every 195 years may be the other extreme, however. [Laughter.]

Senator DENTON. What do you feel are the prospects for continued success of the FIST operations under the budgetary circumstances for the future that we have been discussing?

Mr. MORRIS. Well, the FIST operations have been extraordinarily successful. The cost per arrest on targeted, high-quality fugitives has ranged anywhere from $400 to $700 per arrest.

If one recognizes the major costs that have already been invested in a fugitive, because a case has been made against him and sometimes a trial has already taken place—prosecutors' and jurors' and judges' time—to bring them back to justice for that amount of money seems to me probably the best cost-benefit that one can imagine in the Federal, State, or local criminal justice system.

The last FIST operation cost about $2.8 million for 3,500 arrests, including 45 murderers. So, from that standpoint, I think it is an excellent buy.

I think probably one area that from our standpoint is even more important is, it demonstrates better than any other activity I am aware of that, if we take good, well-trained county sheriffs, local police officers and State police officers and team them up with deputy marshals and give them some authority by making them special deputy marshals so they are not bound by their own jurisdictional lines, and we let them do basic police work and keep the bureaucrats out, this teamwork can address the crime problem. We remember that we are all in this together, whether it is a Federal warrant, a State warrant, or a local warrant, and the public expects the cops to do something about the criminal.

That is exactly what we do. From our standpoint, it also builds relationships, not just for our fugitive programs, which are very important, but the next morning we can go in and ask for help from that same police officer.

Can he close down this street because we are trying to run a secure movememt through there? We have a witness that we need to provide some kind of a location for, and can they keep people away from a certain area? Can they bend the rules a little bit and give us some extra space in their local jail?

All of those things, day in and day out, are the grease, basically, that makes the system of justice work. These FIST operations help build a relationship there that I think is very valuable indeed.

Senator DENTON. There has been a recent increase of terrorist activity; I would not say necessarily that much increase within the United States, but there is a potential and there has been an increased threat.

I would like to know your opinion as to whether the security arrangements at the various Federal court buildings around the country are adequate in light of the potential for terrorist actions within the United States.

Mr. MORRIS. Well, Mr. Chairman, there is a view, I guess—and I do not bind myself up in the definitions of terrorists. That becomes kind of a scholastic exercise that some engage in.

The fact is that we have handled a number of very difficult terrorist trials in the United States this year, by my definition. The Aryan Nation trial in Seattle was very, very expensive; over half a million dollars.

This was the group who built bombs, machine-gunned people, whose goal was overthrow of the Government. It was a very, very difficult trial to conduct.

The M-19, the radical leftist group who have bombed a number of military facilities, were recently tried successfully in Brooklyn. That trial cost a couple of hundred thousand dollars. We had 25 to 30 people there. There were eight defendants in custody, and backup lawyers.

Mr. Manning was a pro se attorney. Lawyer Kuntsler was handling the representation for others. All of the challenges, basically, of our system of justice were faced in that trial.

The fact is that the judge told me that we are facing a simple question as to whether or not with these kinds of groups, whose goal is to overthrow our country—can we, in fact, carry out our constitutional obligations.

So, those kinds of trials are happening today. We have the terrorist elements related to the drug trafficking organizations, in which we have had a number of major trials. We had a major Government witness-informant in Baton Rouge recently gunned down in the street by groups being run from Colombia.

Is that terrorism? Well, I do not know, but it creates for us the same kinds of problems. We have not had the Arab terrorist type, but we certainly have had the problem. As a consequence, our consumers are, in many cases, frightened; that is, the judiciary and jurors and others who are our protective responsibility.

We have taken a lot of steps to secure the courthouses. If you go around the United States, whether it is Mobile and Montgomery or Tucson and Phoenix or wherever, and you look around for a representation of the United States, it is usually the U.S. courthouse, and our judges are aware of that.

If a terrorist group wanted to make a demonstration, we are, in fact, reasonably vulnerable. As I said, we have over 400 such facilities. So we have established our own ability to analyze the intelligence that comes in, because that is the first order of business.

Second, we have built a perimeter security around the vast majority of high-profile courthouses in the United States. We have put magnatometers and x-ray machines at the entrances; trying to maintain the decorum and dignity of the court, but making sure that we do not have to deal with an event that we cannot control inside the courthouse. The way to solve that is by controlling the perimeter.

We are quite concerned about this. I do not see the situation getting better, but I think that we have a responsible, cautious, but intelligent approach to dealing with the risk.

Senator DENTON. Some judges have suggested that the management of the court security function be taken over by the courts. What is your opinion of that proposal?

Mr. MORRIS. Well, far be it from me to indicate what judges are capable of doing. They have been running schools and prisons and jails and universities and the like for a number of years, and I guess they could run their own court security as well.

I have some questions about whether the person who provides their own protection is not in the same situation a the person who represents himself in court; that is, they may have a fool for a client.

It is not clear to me, however, what it is some of thos judges are concerned about. If what they really want is a service arm in the courtroom to assist them in the calling of jurors and the filling of pitchers and the bringing in of witnesses and the like in nondangerous type proceedings, then, in fact, that kind of service ought to be paid for and run by the courts.

If they are talking about trying to secure a trial like the Levasseur-Manning trial or the Aryan Nation, or if they are talking about trying to provide 24-hour protection to a judge who is under threat, then I think not only does it not make any sense, but I think it would be a dangerous step.

Senator DENTON. As you know, one of the contentious issues involved in the way the bill is written now, by which you would become a bureau, involves the issue of the appointment of a temporary U.S. marshal in the interval before another is appointed by the President.

Do you feel that it is important to give the Attorney General the exclusive authority to appoint those temporary marshals, or should it be left to the Federal judges who have been doing it?

Mr. MORRIS. Well, the history of that goes back to the last time we had an oversight hearing, about 1789, when there was no Department of Justice. The marshal was alone out there, a single individual, along with a part-time prosecutor and a judge.

If something happened to the marshal, the long distances and primitive communications required basically that the judge take some immediate action to fill that interim appointment. The world has, in fact, changed in the intervening 197 years.

It seems to me that the Attorney General could select somebody who can carry out those responsibilities, until the President, on the advice of the Attorney General, recommends to the Senate the permanent appointment.

I think that it can be done expeditiously, and I think it can be done in a way that eliminates this confusion that some people have as to whether the U.S. Marshals Service is an executive branch agency or an arm of the courts.

Senator DENTON. Do you feel that you can assure the judges who may be concerned about S. 2044 removing the Marshals Service from its historic role in assisting the courts?

Mr. MORRIS. Well, I clearly do. The issue here is a confusing one to me in some ways, because nobody has clearly articulated to me what it is specifically they are afraid of losing.

There is a process in place. As a matter of fact, I wrote to Judge Sessions yesterday outlining an amendment to the legislation, which I believe would deal with their concerns as I understand them, while at the same time recognizing the fact that this is an executive branch organization under the policy leadership of the Attorney General. I believe we can work our way through that.

The issue, however –and I think it is important that it be made clear. In 1982, the Chief Justice and the Attorney General arrived at an arrangement by which it was agreed, and subsequently adopted as policy by the Judicial Conference, that deputy U.S. marshals would be in courts with prisoners and they would be in courts for security and law enforcement purposes.

But they would not be there simply as a presence or as a servant to the judge. Those bailiff functions were not appropriate for the level of training and for the quality of the deputy U.S. marshals that we are bringing into the U.S. Marshals Service today.

As I say, that was adopted by the Attorney General and the Chief Justice and accepted by the Judicial Conference. What has been going on in a number of jurisdictions, and some of those judges who, I think, are raising issues, is they have been using the provision of section 569 to basically circumvent that policy agreement.

I believe that many of them are not only out of keeping with the interests and policies of the Marshals Service, but also out of keeping with the policies of the Judicial Conference of the United States.

Senator DENTON. Excuse me a moment. I have some related activities on the floor that I have got to resolve. [Pause.]

The Witness Protection Program is an important issue. I realize that some of the witnesses you must protect are actually criminals themselves. I would like to know how you prevent those witnesses from continuing to engage in criminal activities even while they are being protected, and generally what you consider to be the major problems in the Witness Protection Program.

Mr. MORRIS. Well, Mr. Chairman, this may sound strange to you coming from a law enforcement officer, but our job is not to protect the public from these witnesses. Our job is to protect the witnesses from the people who originally threatened them.

As you quite accurately point out, well over 90 percent of these witnesses have previous criminal records. As is the case for all groups who basically find themselves—individuals who have previous criminal records, a certain percentage of them return to crime.

We have tried to do a number of things to reduce that possibility. One, we have provided psychological testing right at the outset before we even accept them into the program. We provide them with jog training. We have secured agreements with over 300 businesses that will accept people into jobs so that we can try to rehabilitate them.

It is a difficult life for a witness. Not only do we change their name, but we change their location. We provide them whole sets of new documents. We provide them with a whole new background and a whole new history.

All of their original contacts, familial friends and the like—no longer are they able to communicate with them on the basis that they have before. Sometimes the breakup of families occurs as a result of this. So there are many social problems that the witnesses, in fact, go through.

We try to deal with them as well as we can and try to give them a chance to succeed again, but it is true that sometimes they end up back selling drugs or robbing banks because that is what they were most comfortable in doing.

In those cases, we have arrangements through the FBI fingerprint section so that if a query comes in on a new name, we can make an immediate connect as to what the real criminal history of that person is.

We are immediately notified, and the local police who may have made the arrest would be notified so that the person is not released and we can get them back into custody.

We have worked the arrangement with the FBI that would ensure that when a local police department does a fingerprint check or a name check into the Ident Division, that immediately if it comes up under the assumed name, they will let us know and we can get back to the police department so that the person is held. Then we can make a determination as to whether or not they will continue in the program, and the local police know exactly what the real criminal history is.

But I think that great, positive strides have been made forward in this program. There is no program like it in the free world. We have talked with a number of countries about their adopting similar kinds of programs. A lot of the early problems that existed have gone.

Quite honestly—and I know that Judge Webster would tell you the same thing, as would Steve Trott and others at the Department of Justice—no major organized crime trial in the United States would be possible if we did not have this program.

Senator **Denton**. I am going to have to go to the floor. On the floor, I have got a terrorism-related bill with several amendments with which I am involved.

I will have to turn this over to my chief counsel and staff director of the Security and Terrorism Subcommittee. I want to say that

I look forward to progress on the bill and, again, express my compliments to you and your personnel for a job wonderfully well done.

Mr. **Morris**. Thank you, Mr. Chairman.

Senator **Denton**. Senator DeConcini expressed that he would have been here had he not had to remain at the hearing regarding the POW-MIA question.

Mr. **Lisker**. Let us see if I can find where we were here, Mr. Director. The problem is that H.R. 4151, the Embassy security bill, is on the floor at 11 and Senator Denton has a number of amendments and he is going to have to go over and offer the amendments.

Mr. **Morris**. Also, that emergency supplemental is an emergency to us, too, and that is very important.

Mr. **Lisker**. I am sure you want him there for the voting.

How would you describe the Marshals Service contributions to dealing with the problems in international narcotics trafficking and narcoterrorism?

Mr. **Morris**. Well, there are several aspects of it. First, of course, is the phenomenon of trying organizations and individuals who are involved in the business of international drug trafficking.

This has raised a number of significant challenges to us because, quite honestly, a number of the individuals involved in narcotics trafficking do not have the more traditional Western European attitudes toward the sanctity of the courts. As a consequence, they are prepared to threaten jurors and judges and the like in a way that we are not accustomed to. This has brought, of course, a number of major challenges to the Marshals Service in simply providing protection and the security of the court itself.

It obviously has also created some fears amongst members of the judiciary. When a major informant like Barry Seale is gunned down in Baton Rouge, that is a disturbing event. I think to some extent the increase in threats against the judges is a result of narcotics trafficking, particularly its international elements.

It was only about a year ago that the Supreme Court in Bogota, Colombia, was invaded by drug trafficking, terrorist kinds of organizations. So, we are dealing with a different kind of defendant. That is one aspect that affects us.

The second, of course, is that we are dealing in the fugitive area with the phenomenon of people able to have a support structure well beyond the confines of the United States, essentially worldwide, which, in our fugitive jurisdiction, requires us to develop a number of contacts and relationships with other police forces around the world, which, quite candidly, 15 years ago was significantly less important.

Mr. **Lisker**. All of these functions which you have described are dependent on, in some cases, very perishable intelligence. Now, I understand that you have a threat assessment unit, but before we get to that, how would you characterize, if you can, the flow of intelligence between those agencies responsible abroad for gathering intelligence and the domestic agencies, the CIA and the FBI primarily, and the Service?

Do you feel that you are getting adequate intelligence, or do you feel that there is a possibility of improvement in terms of the mechanism for exchanging intelligence?

Mr. **MORRIS**. Well, of course, there is always the possibility of improvement. We are really a relatively new player in this area, and it requires large organizations like the CIA and FBI and others to build into their own thinking patterns the needs of the Marshals Service.

Given that, I really feel that we have made great progress in the area of getting timely information. We have built and established a number of effective relationships with the intelligence community and with the other investigative agencies on intelligence matters—DEA, FBI, and the Treasury agencies—that I think are very positive.

Not that you cannot do better, because, as you point out, it is perishable and information that is 2 weeks old is history. But all things being equal, and realizing that we are a new player here, I feel that we have made good progress.

Mr. **LISKER**. In 1982 and 1983, Senator Denton chaired a series of hearings on the domestic security guidelines, then known as the Levi guidelines, now the Smith revisions to the Levi guidelines.

Mr. **MORRIS**. Right.

Mr. **LISKER**. One thing that came across from former Secret Service agents was that they were getting about 10 percent of what they used to get from the FBI in terms of information on threats against their own protectees, and the FBI was, in a sense, sort of screening the information preliminarily and making what they described as a subjective judgment as to what would be important and crucial to the Secret Service in carrying out its functions.

That caused Senator Denton some concern, for very obvious reasons. I wonder, since you, in terms of witness protection, have a number of charges and much of what you get in the way of threats depends on intelligence from DEA and the FBI, do you get a sense that there is any sort of prescreening going on of that intelligence, or are you getting the raw data for your own interpretation?

Mr. **MORRIS**. Well, I am not sure that I am in a position to answer whether there is prescreening. Probably the most immediate area where we have to act the most quickly is in the area of threats against judges.

As I pointed out, those have increased significantly. We get one a day, and the nature of that threat and how serious it is and how we respond to it is dependent on the timeliness and accuracy of the information that we receive.

Quite honestly, the relationship I think we have with the Secret Service and with the FBI is pretty good. We have some breakdowns, but I do not think they are institutional breakdowns as much as they are just—you know, regardless of what kinds of systems you have in place, you still have people.

We have had a few problems with other agencies who are not as involved in the intelligence distribution and response business as the FBI and Secret Service are. We recently circulated the guidelines that we have with the FBI to other agencies like Customs, DEA, ATF, and the like, so that they can adopt procedures on intelligence exchange similar to those we have with the FBI and Secret Service.

Mr. LISKER. One of the areas where Senator Denton had some oversight hearings was in connection with the Los Angeles Olympics. In that regard, you may recall—I am sure you do—that there was what appeared to be some confusion as to who would have responsibility for various functions and events which developed during that period of time.

Now, we want to get more information about your special operations group. It is my recollection that that group initially was to be deployed at the Olympics, and then some sort of a problem developed in terms of the funding which ultimately resulted in the group not being deployed.

Can you enlighten us on that?

Mr. MORRIS. Well, as I recall, and this is very hazy indeed, but the first issue was who would respond where and in what fashion, given what kind of an event. They must have had 40 or 50 different agencies involved, working all those problems out.

The end result was that they felt that what they had vis-a-vis the LAPD's SWAT team-type capabilities, plus the Bureau's hostage rescue team, was adequate. Given all of the resources out there, we never had any particular plans to deploy the Special Operations Group [SOG].

Our role out there was much more limited than the LAPD or the FBI or LASO or any of the other organizations. If I am wrong on that, somebody will pull my coat-tail from behind me.

Mr. LISKER. Well, that is reassuring because it was our impression that there might have been an effort to sort of isolate the SOG from the events, and that certainly would not be consistent with what we had been led to believe the Justice Department position was going to be in making all resources available to prevent an act of terrorism, which I think certainly that law enforcement presence probably contributed to.

Could you tell us more about the SOG and its present makeup and how it is being used?

Mr. MORRIS. Certainly. We have had a special operations group now for nearly 15 years, and it is intended to be a highly mobile response unit. It originally developed out of the problems that we dealt with on the Indian reservation in South Dakota at Wounded Knee, where we were basically patching together a number of different people to deal with a long-term, difficult-to-control situation. It was also intended to respond to the problems in the late sixties and early seventies dealing with civil disturbances and riots and the like. We recognized that there were a number of areas where there was exclusive Federal jurisdiction or exclusive areas where the Marshals Service would need to respond and there really was no one capable of response except for the military, which is unacceptable for a number of reasons.

So we put the group together. It has evolved to a position now which we are in the process of readjusting and changing it. The commander of the special operations group was recently selected to be the U.S. marshal in one of the districts in Pennsylvania, and we used that opportunity to take a fresh look at the organization.

It has done a good job. It can carry out all sorts of paramilitary-type functions and is able to deal, either in a large mass or in small units, with any of a range of crises; from a hostage situation in a courthouse to, quite recently, the movement of the Macheteros, the Puerto Rican Independista Group, out of Puerto Rico in a quick fashion onto one of our aircraft up to bail hearings in Connecticut. The movement was performed in a way that would eliminate any potential risk, although there was a civil disorder trying to restrain the actions of the Federal officers involved.

In those kinds of situations, they have done an excellent job. The one area that we are looking at is a reorganization of it in such a way that we can use it as essentially SWAT teams in the various areas around the country. We would have configurations of six so that we could use it in small arrest situations and also organize it in a more broad way.

One of the problems that any organization like this has—and I think it is important to tell you that all of the people in this, with the exception of the few leaders, are full-time deputy U.S. marshals doing other functions. I mean, they are not sitting around waiting for a crisis.

But even then, there is a standard problem that if you are not called upon to do something, you know, the morale goes down; the training level goes down. That keen edge that is so important in this kind of business begins to tarnish and blunt.

So we have tried to put an organization in place now, and we will be working on this over the next couple of months, that would blend it into our ongoing operational activities. To that end, I have put it under the overall direction of the associate director for operations.

In the past, for example, when we ran a spy exchange—like we did at the Glienicke Bridge in Berlin when Shcharansky was brought over and we exchanged some Czech spies on the bridge, we basically patched together various people to do that.

We would now be organized in a way that we could take one or two of our special operations group teams, that have been fully trained, and basically could just put them together as a small unit and then deploy them that way. So I think it is a much more effective way to use the special operations group and we will be able to use it as a large organization if that, in fact, is needed.

But on a regular basis and a weekly basis, they will be engaged as small teams so that the training level will be very highly maintained.

Mr. LISKER. In the situation where a courtroom could come under siege by narcotics traffickers, as happened in Columbia, would it be the FBI's HRT or the local SWAT team or the SOG which would attempt to neutralize the situation?

Mr. MORRIS. Well, it would be principally Marshals Service responsibility, but in any situation like that, you know, we will use the skills and talents that are around. The Hostage Rescue Team, of course, is located out of WFO here in Washington, and so it would be available if we had a problem here in the D.C. district court or the district court in Alexandria.

But in this new configuration, we would have, in Chicago and Detroit and San Francisco, a ready-based group prepared to respond. Quite honestly, we are never too proud to ask for the help of the local police. We almost never make an arrest without a local uniformed police officer, and it would not bother us at all, if we need the LAPD to come in and help us, we would call them in a minute.

Mr. LISKER. Do you train together with the locals or with the FBI HRT? In other words, is there any integration of these special weapons and tactics-type teams?

Mr. MORRIS. There is kind of a community involved. We have had a lot of discussions and meetings with the HRT. Recently, the Border Patrol set up a group called the Border Tactical Command and we, in fact, trained their initial people at our facility in Louisiana.

So there is a lot of exchange of information and a lot of learning as we go along. But from an operational standpoint, they operate as separate entities with their own specific statutory responsibilities.

Mr. LISKER. About 2 weeks ago, there was an operation here in Washington at the railroad yards conducted with the Metropolitan Police, the FBI and other law enforcement agencies.

I do not know if the Marshals Service was involved, but it seems to me that if they are having operations like that, and since you have clear responsibility in this area, whether anyone wants to admit it or not, there ought to be some notification and involvement by the Service.

Mr. MORRIS. We often are, and we have been involved in some crisis planning here in the District of Columbia. I was not aware of that particular operation.

Mr. LISKER. I mention it because the staff of the subcommittee was invited to participate in the operation as observers, and it seems to me that it would be useful to have at least observer status accorded to the Marshals Service, if not direct participation.

Mr. MORRIS. I agree with that.

Mr. LISKER. That is something we ought to try to work on.

Of course, any of these groups need technical support. Do you have security people who are, you know, involved in state-of-the-art electronics and ultrasonics, infrared magnatometers and all that sort of thing?

Mr. MORRIS. Given the mission that we have, I think that we have the very best people in a democratic society able to provide both security planning and security equipment in place. We cannot necessarily fix it all, but we know exactly the kinds of equipment, what its shortcomings are and what its strengths are.

We realize that we are responsible for hundreds of buildings and we developed for our own purposes some unique equipment; a lot of portable equipment, for example, that makes sense given our needs.

We cannot have the kind of equipment in place that you have at an airport, for example, in a lot of small courthouses. So we have worked on the development of portable magnatometers and portable x-ray machines, equipment that we can move in and move out.

We do not provide, for example, the kind of protection the Secret Service does; that is, the protection around the White House or around a residence that can be fairly permanent. What we have to do is have equipment that we can move in while the threat is in place; put the equipment there while we need it, whether it is ground sensors or light sensors or whatever. Once the threat is over, we scoop it all up, put it back in our bags and move on to the next threat.

So, given the kinds of unique needs that we have, I think I have got the best people possible.

Mr. **Lisker**. In the case of an attempted bombing of a courthouse or a judge's chambers or something of that nature, do you have Bureau of Alcohol, Tobacco and Firearms support? It seems to me that if you are dealing with trying to detect a firearm or a knife or a more conventional weapon, that would be one thing that would be required. The equipment that is available commercially certainly would suffice.

But as we learned in the airport situations, when you are dealing with plastique and other sophisticated explosives, the market is not exactly overloaded with devices to detect that. How do you deal with that?

Mr. **Morris**. Well, first of all, there is very close coordination between the Secret Service, BATF, the marshals, and the Bureau and others who have responsibilities in these areas.

We have four systems engineers who are basically experts in this area; I mean, that is what they do. Then we have court security inspectors for each circuit, as well as at headquarters, who are trained in all the anti-intrusion electronic equipment devices necessary.

So we have somebody in the third circuit who can deal with problems from Philadelphia and Pittsburgh to, you know, Delaware or wherever, and provide that extra level of sophistication that the marshal and his own staff may not have.

That person is responsible for all of those other links; that is, knowing exactly what the capabilities of the local police department are, what the capabilities of the other Federal agencies are. He becomes kind of the linch pin, the available expert to pull everything together, plus he has the equipment necessary to deploy.

As I say, we use a lot of portable, highly mobile equipment because of the kinds of functions that we do. But I think this committee would be quite impressed at the kinds of equipment and the quality of people we have.

Quite honestly, we have developed that expertise because we cannot do it the way some people can do it. We cannot deal with a high-profile trial by putting 150 people on it. So we have to use the tool between our ears better and think through all the various possibilities, and rely on equipment and duress alarms and other things, because we do not have the manpower to do it any other way.

Mr. **Lisker**. Well, given your limited manpower and your dependence to some extent on private contractors, how would you assess overall the performance of these contractors where they are performing responsibilities normally handled by a deputy U.S. marshal?

Mr. **Morris**. Well, of course, that varies some. One major contracting area is the court security officers. We have 800 or so who provide a perimeter guard force. Quite honestly, I do not think that there is a higher quality contract guard force in the United States.

Mr. LISKER. Excuse me just for a second.

Mr. MORRIS. OK.

Mr. LISKER. The terrorism bill is back again, and I will be right back. Thank you.

Mr. MORRIS. OK. [Pause.]

Mr. LISKER. I am sorry I interrupted you when you were responding on the private contractors and the security functions carried out by private contractors.

Mr. MORRIS. We were talking about security officers, I think, and I had just said that we believe that the quality of the contract guards that we pay—we basically manage them, but they are basically paid for out of the judiciary budget. They are really second to none.

Now, we pay a premium for that. I mean, they do not come inexpensively. One of the problems with contract guards has been that you get what you pay for. I remember Steve Trott's comment to me when we originally talked about this and he was the U.S. attorney in Los Angeles. We were talking about putting contract guards in the courthouse and he said that the only contract guards that he expected ever to see in the courthouse would not be in the courthouse, but they would be in the courtroom and they would be defendants.

There has been a whole history of that as an attitude. Because of the importance of controlling perimeter security and because it was important to maintain the decorum and dignity of the court—we could not have Sam Brown and Yellow Braid and the type of contract guard that people tend to expect.

We developed a set of standards which require a person to be a graduate of a police academy and to have police experience. We have ended up with a lot of police officers in those positions. As I say, we paid a premium for it.

We have made them special deputy U.S. marshals. We are not authorized under the contract procedures to train these people, but we can orient them. So we send them down to our training facility and we orient them for a week and we qualify them with a weapon.

When they come back, basically, we have made them a part of the Marshals Service family. That kind of contract guard operation works. But as I say, we are not paying $12,000 a year. On the average, we are paying $26,000 a year—in fact, more than my deputies make when they start. That has worked reasonably well.

We are also in a situation in our Agency where because we are spread so thin, if we have, for example, a prisoner who has to be hospitalized and we need to put a 24-hour guard on him, I do not have enough people to put a 24-hour guard, or two guards, on that prisoner, given all the other responsibilities.

So we will hire a police officer or a former police officer as a contractor of ours to provide that guard service. We do quite a lot of that. In fact, we use guards even for more regular activities in the Agency. We have quite a large, what I refer to as, shadow work force.

Some of that, I think, ought to be done by the regular Marshals Service manpower, but to a large extent it has given us an opportunity to be more flexible; that is, we may not need a person in Butte, MT, 40 hours a week. We may need somebody there 3 hours a week to serve some papers or something like that.

It is helpful if we have somebody there to do that, but we only have to pay them for 3 hours' work. So, given the size and breadth of this country and the size of the Marshals Service, it has given us some flexibility.

One aspect of this legislation would give us personal services contracting authority. Right now, we do this under provisions which are in kind of a gray area. We do hire these people, but we do it under our posse commitatus special deputation kind of authority.

However, it needs to be made more clear. Although we have been doing that for literally decades, there have been a number of changes in contract law and procedure, and I think we need to legitimize what we do in a more specific way.

Mr. LISKER. One of the areas of concern that has been expressed to Senator Denton by the FBI, and we have heard from BATF, Secret Service, and other agencies as well, has been in the area of being able to take official cars home.

Under H.R. 3614, which was under consideration at the time we had the FBI authorization oversight hearing, the only person authorized to take a car home would be Judge Webster. Since he does not normally drive himself, that did not seem to be really too relevant.

How do you feel about this legislation, and how would it affect the Marshals Service operations?

Mr. MORRIS. Well, I think Chairman Denton's concerns that he raised about this are absolutely on point. The fact of the matter is that a police job is not a 9-to-5 job. We are not taking home GSA motor pool cars as transportation to and from home.

We are taking home fully built-up police vehicles with lights and sirens and weapons and radios and the like. Quite obviously, people do not always escape between 8 and 6 in the day. Sometimes, they do it in the middle of the night, and sometimes leads on fugitives occur and sometimes threats on judges occur at night.

So we have duty officers and the like who are required to respond to that. It is often not only inconvenient, but dangerous, to expect them to run out, hoping the wife has not gone off to the store with the family car—run out; jump in the family car, assuming it is there; drive in to the office and work their way down to the basement to get a police vehicle to respond. I mean, that just simply does not make any sense.

I do not think that is what the American people think. Even Senator Proxmire and others who have been concerned about the misuse—I do not think that is what they have been thinking about in this area. I mean, it is not a sensible way to use the valuable resources of the Government, which is not just the vehicle, but is, in fact, the officer and putting the officer in the vehicle. That often means that he has to have it at home.

Mr. LISKER. That is certainly consistent with what we have heard from the other agencies, and I appreciate your giving us those views for the record.

Under S. 2044, the Director of the Marshals Service would be appointed by the Attorney General. Senator Denton did not understand—and I think others have asked this question—why, as in the case of other divisions and bureaus, is not the appointing authority in the President?

Mr. MORRIS. Well, first of all, it is mixed. The Bureau of Prisons Director is appointed by the Attorney General. The directors of the Secret Service and Customs and ATF are appointed by the Secretary of Treasury. On the other hand, FBI, DEA, and INS are appointed by the President. So it is a kind of a mixed bag.

However, the reality is that I supervise 93 Presidential appointees. So I did raise this issue in the process, saying that it was slightly anomalous to have the Attorney General appoint the Director of this Agency and then have him supervise 93 people that the President appoints, but it did not come really to resolution.

The Attorney General's position was that it should be done that way. But there was some debate within the White House and it did not seem worth raising further at that particular time. If the committee is interested, I could certainly seek out the views of the administration more specifically on that.

Mr. LISKER. Yes. Senator Denton and others have expressed some interest in possibly an amendment to this bill which would make that change. I would guess that there might be other amendments as well, but at least that would bring it in line with the point you made about the supervision of the Presidential appointees. It seems inconsistent.

Mr. MORRIS. I would doubt that the administration would oppose such an amendment.

Mr. LISKER. Would the fees collected under this bill, S. 2044, offset the costs of the private processing-serving?

Mr. MORRIS. To a significant extent, they would. Currently, we are subsidizing civil litigation by being required to charge only $3, I think, when the actual cost is somewhat higher. This would allow us to contract the process service out and reduce some of the workload that we have in that area.

The reality, of course, is that 70 percent of the process that must be served is in pauperis; that is, service for people whom the court has deemed indigent, and therefore incapable of paying the service fees. In that area, we would continue to do it.

Mr. LISKER. You had alluded in your opening comments to, in the area of fugitive apprehensions, some technical amendments or modifications that you and Judge Webster were working out.

To your knowledge, is there any flat-out objection which the FBI has to the provision in the bill relating to your authority in fugitive matters?

Mr. MORRIS. As we have amended, you mean? As we have worked out the language?

Mr. LISKER. Well, I do not think I have seen the amendments, but perhaps maybe you could explain how the amendments would change the existing provision and whether or not you deem that to be satisfactory and a suffcient predicate for your work in this area.

Mr. MORRIS. I was just trying to think whether it was in the testimony.

Mr. **Lisker**. Perhaps you could just generally describe them or supplement the record, if you want to do that.

Mr. **Morris**. Quite honestly, we had drafted up language that was unclear. We had taken some language from the Code of Federal Regulations to a delegation of authority by the Attorney General, but without any independent statutory authority, and incorporated that in. I did not really pay much attention to it.

When Judge Webster pointed that out to me, we were having lunch and he said, this does not make any sense. And I looked at it and I said, I do not understand it either. I called him back about 1 hour later and I said, how does this sound, and he said, that sounds fine.

The language says: "The U.S. Marshals Service is authorized to conduct and investigate fugitive matters, domestic and foreign, as directed by the Attorney General." It previously had a provision at the end which said, "and probation, parole, mandatory release, and bond default violators."

It simply did not add anything, so we struck it. Other than that, at the levels that I deal with at the FBI, there is no objection to this language.

Mr. **Lisker**. I think you know the example of the *Christopher Boyce* case, where the Marshals Service surprised a lot of people in the quality of the work that was done in that sort of elusive case. It eluded a lot of people for a lot of time from other agencies.

For the marshals to be able to apprehend him shows that there is a tremendous untapped capability here. Given the Gramm-Rudman cuts that other agencies, as well as the marshals, are going to be forced to take, especially next year, Senator Denton has asked the General Accounting Office to review the relative responsibilities of the FBI and the Marshals Service in this area and the cost-effectiveness of an expanded role for the marshals.

If I understand what you said about the FIST operations when you were describing them to Senator Denton in response to a question he asked, the cost factor seemed rather surprising in terms of what you are able to do for a very low dollar, whereas as I understand it from the General Accounting Office on the FBI apprehensions—there may be reasons for this; I am not sure just what they are at this point.

We are going to be briefed by the GAO on Monday, I believe it is, but their numbers are in the $7,000 up range per fugitive. Now, it may be that many of their fugitive cases are more complex. I cannot speak to that.

But certainly, looking at this thing as nonbureaucrats, we certainly think that there is room for everybody in this area, and that clearly while there are some fugitives that the FBI would have a special interest in, and even special information which would more directly lead to their apprehension, that the Marshals Service can play a very significant role in this area.

We certainly hope that what will eventuate in terms of the practical translation of whatever agreement that you and Judge Webster entered into will be that you will continue to play a significant role in this area.

Mr. **Morris**. We take great pride in our fugitive successes. I think it comes not just because I believe, of course, like any agency head, that I have good people, but our day-to-day work brings us into a day-to-day relationship with criminals more than any other law enforcement agency, with the exception of the Bureau of Prisons: that is, we are responsible to protect them when they enter our witness program.

We basically hide fugitives, after all. I mean, is that not really what the Witness Protection Program is all about? The bad guys are looking for the Government witness, and we are out providing them the new name and trying to cut off all the contacts in all the ways in which they, in fact, might be found.

So we are fairly well skilled at that. Our success rate, I think, is quite outstanding in the protection of witnesses. But I think it also has instilled in us an understanding of what the various weaknesses are when a person is on the run, so that helps.

Second, our routine work is sitting with prisoners in trials and moving them around. That is sort of the day-to-day tedium in our job, but those of us who do that day in and day out learn a lot about the criminal mind and about what the criminal is likely to do.

I think when you take those skills that we develop simply as the routine of our activity and then set our people the task of trying to out-think the fugitive who is on the run, I think we do it very well.

On the other hand, as I have said before, we have an awful lot on our platter, and if we can get done what we have gotten done and what is expected of us, that will be fine. I have no great lust for any jurisdictions that the FBI currently has.

Mr. Lisker. I understand that.

Your contact with transportation of prisoners gives rise to a whole other area, and that relates to your threat analysis unit. Now, in the FBI oversight hearing conducted by Senator Denton a few months ago, one of the areas that was discussed by Judge Webster and Senator Denton related to the availability of almost a cadre, in prison, if they could be released, of potential terrorists who might be responsive to outside leadership, for a variety of reasons—racially motivated primarily, but there could be subnational interests and other political interests driving this association as well.

One of the areas where it seems to me that you would have a leg up on a number of other law enforcement agencies would be in the availability or access to information of this nature about what was going on in the prisons.

Since prison gangs are a wholly discrete subset, I wonder if you could tell us a little bit about your threat assessment unit, as it relates to collecting that kind of intelligence?

Mr. Morris. Well, the prison gang phenomenon, and I think it is growing, is one that is not just within the prison itself. As you point out, it basically has a support structure outside the institution as well as in, whether we are talking about the Aryan Brotherhood, the Nuestra Familia, or any of the various groups that have been identified.

The key people in this area, of course, are in the Bureau of Prisons. I try not to ever let any hearing pass without my saying something very kind about the very difficult job that the Bureau of Prisons and Norm Carlson do.

If you want to scare yourself to death, you ought to go to look at what he has incarcerated in the MCC in New York. It is extraordinary.

There is a prison gang task force that we sit on with the various investigative agencies, as well as the Bureau of Prisons. We have got an analyst who is building an expertise in that area, because we have responsibility, of course, for escapes and conspiracies inside the institutions, and there have been a number of them.

The ability to squelch those conspiracies before they, in fact, take place means that we do not have to put our activity into fugitive apprehension. So I think that it is an area where there is a large amount of information floating around back and forth between organizations.

It is one that is of particular concern to us. Although it is primarily a prison phenomenon, we do see it in some of the larger jails, Federal and local. Basically, those people who are members of one of these organizations—when we know that, it helps us to be responsive in our prisoner handling.

I mean, we are responsible for taking these people from, in many cases, out of Marion down to Benton or off to some other place where they are holding a trial. We end up with sometimes 8, 10, 12 prisoner witnesses called for by the defendant.

This is one of the more mindless things that we do in the Federal system. We will have a person who is doing three life terms or four life terms and he will kill somebody, and so now he gets a trial. Now, he will do four life terms, not having any Federal death penalty.

So he gets to take all these friends out of the institution down to some local jail, at great expense to the government, and they all get a chance to see whether they can escape.

Meanwhile, at Marion, we have got them pretty much battened down, but we do not have nearly the same control when you are moving them on a bus, an aircraft, or busing them down a road and sticking them in a local jail. But that is the system we have.

Mr. **Lisker**. Senator Denton sent me out to Marion, along with a representative of your agency a few months ago, and they described these so-called Big Mac murders where they will kill somebody just to go out and get a Big Mac or a Roy Rogers or some other hamburger.

Mr. **Morris**. That is right.

Mr. **Lisker**. I noticed that at Marion they had their own courtroom in the jail facility itself, which seems to make a lot of sense.

Mr. **Morris**. They have been starting to use that, which will make a lot of sense.

Mr. **Lisker**. I also was surprised to see that that tower at Marion had been attacked by a helicopter gunship, and it is incredible that in southern Illinois something like that would happen. But I saw the bullet holes in the so-called bullet-proof glass that had been cut out of the tower.

Mr. **Morris**. Yes.

Mr. **Lisker**. Well, we will have some additional questions, and I suspect that Senator DeConcini may have additional questions, as well, and other members of the committee and subcommittee, since this is the first hearing, as we have said several times, in almost two centuries.

Senator Denton wanted me to especially thank Mr. Toomey and Mr. Safir and Mr. Boyle for their work in helping to prepare for this hearing, and certainly you, Director Morris, for your very candid testimony.

As I say, we will have additional questions which we will submit to you. We would like to try to get answers within a reasonable time so that we can go to printing of this record. In addition, as Senator Denton indicated, there will be a further hearing, at least one further hearing, on S. 2044 where a number of other witnesses who have expressed an interest in testifying will be provided that opportunity.

I might add that should something at that hearing occur which perhaps is not clear in terms of the record and there is a clarification which the Service can offer or the Department of Justice, for that matter, can offer, we certainly would be anxious to get that from you.

If you would like to testify or have a representative testify at that subsequent hearing, that would be acceptable as well.

Well, thanks again for your cooperation.

Mr. MORRIS. Thank you very much.

Mr. LISKER. I am sorry that Senator Denton had to go to the floor.

Mr. MORRIS. That is quite all right. I hope he voted yea.

Mr. LISKER. Thank you.

[Whereupon, at 11:40 a.m., the subcommittee was adjourned.]

[Mr. Morris' submissions for the record follow:]

Department of Justice

STATEMENT

OF

STANLEY E. MORRIS

DIRECTOR

UNITED STATES MARSHALS SERVICE

Thank you, Mr. Chairman, for this opportunity to provide the Subcommittee with an overview of the United States Marshals Service and to discuss the Administration's legislative proposal (S. 2044), the United States Marshals Service Act.

As you know, we are preparing to observe the bicentennial of the U.S. Marshal in 1989. And, while we take great pride in the distinguished history of the Marshals Service - the nation's oldest Federal law enforcement agency - we believe that the Marshals Service of the 1980's is more vital, more professional, and more crucial to the Federal justice system than at any time in the past.

When the office of United States Marshal was established in 1789, the duties were outlined in very broad terms: to administer the district and circuit courts; and to execute all lawful precepts directed to the Marshal under the authority of the United States.

Over the following years, Congress assigned to the Marshals such a variety of duties that they became the "handy man" of Federal Law Enforcement. For example, they were directed to take the census; to hire and supervise jails for Federal prisoners; and to execute courts-martial. Later, Marshals were given custody of all vessels and goods seized by revenue officers and became responsible for summoning appraisers to value goods taken in execution of judgment. Other statutes authorized the Marshals to sell lands seized by the United States in satisfaction of judgments; to become fiscal agents of the courts; and to serve as agents of the President in executing orders issued by him under the Alien Acts of 1798.

Not only was the early Marshal required to perform a vast number of duties, he was accountable for the performance of those duties to a number of superiors. Today, the U.S. Marshal is a Presidentially-appointed agent of the Department of Justice, whose activities are supervised and coordinated by the Director of the U.S. Marshals Service under the authority of the Attorney General.

Today, our responsibilities are so broad that virtually every Federal justice system initiative has an impact on the Marshals Service. Indeed, the Marshals Service provides the critical link between the Executive and Judicial Branches; a law enforcement agency performing Executive Branch functions that are essential to the operation of the Federal judicial system. We maintain custody of and produce prisoners at judicial proceedings and provide for the security of Federal court facilities and for the safety of judges, jurors, and witnesses. We track down and arrest Federal fugitives, administer the asset seizure and forfeiture program, and protect endangered government witnesses and their families. We disburse the funds and collect fees relating to court activities, and we assure that the orders of the court are executed.

The Marshals Service carries out all of these functions with a staff of fewer than 2,650 full time employees (approximately 1,900 sworn deputies and 700 administrative and clerical support personnel). These personnel operate from 385 office locations in districts reaching from Guam and the Northern Mariana Islands to Puerto Rico, and from Florida to Alaska.

JUDICIAL SECURITY

The U.S. Marshals Service is responsible for the security of judicial proceedings and facilities and for the safety of members of the judiciary and court officials. The magnitude of this responsibility is awesome both in terms of the numbers of individuals involved and the potential for harm that exists.

With a total of approximately 1900 operational employees, the Marshals Service is responsible for the security of 483 Federal judicial facilities throughout the Nation. In addition, we provide for the personal safety of 1,773 judicial officers and, when necessary, hundreds of jurors, witnesses, U.S. Attorneys spectators, and trial participants. The security role is fulfille in several ways.

Our procedures call for the provision of sufficient security personnel whenever the circumstances of a judicial proceeding require such measures. The "sufficiency" of personnel is determined by the Marshals on a case-by-case basis.

In addition, the Marshals Service, in cooperation with the judiciary in each Federal district and the Administrative Office of the U.S. Courts, implemented a Court Security Officer (CSO) program in 1983. CSOs are hired under competitive contracts to perform the building perimeter security functions; screen persons coming into the court building, and augment the extra security details assigned to sensitive trials. At the present time, there are 801 CSO's in place.

Working in cooperation with Judicial Security Committees established by the courts in each judicial district, we employ a variety of techniques and modern technologies to provide for the safety of Federal judges, their staffs and, when appropriate, members of judges' families. Closed-circuit television monitors, electronic alarm systems and other devices have been installed in courthouses, judges' chambers, and elsewhere to provide an unobtrusive but effective shield against those who might pose a danger. Moreover, the Marshals Service includes a highly trained cadre of Court Security personnel capable of providing additional protection whenever necessary.

We have also developed a Threat Analysis Group whose mission is to provide an immediate assessment of the validity of any threat against a Federal judge. In cooperation with other Federal, state, and local law enforcement agencies, our threat analysis specialists collect and examine the available intelligence information and help determine the degree of risk involved in a threat situation.

Unfortunately, Mr. Chairman, our Court Security programs have become increasingly critical in recent months because of the continuously growing number of threats lodged against Federal judges and because of the frequency with which extremely violent criminals are prosecuted in Federal courts. In fiscal year 1984, there was a 32 percent increase in threats against members of the judiciary, U.S. Attorneys, and other Federal court officers. The trend accelerated in FY 1985, with the number of threats reaching 240, an increase of 57 percent over the prior year. In the first five months of this fiscal year, 116 threats were already recorded.

In the months just ahead, Federal courts will be the sites for trials involving terrorist groups, major organized crime figures, international drug cartels, and paramilitary groups with histories of violent protest. Indeed, trials involving these types of criminal defendants and the attendant potential for violence have become the norm in Federal criminal courts.

FUGITIVE INVESTIGATIONS

The Marshals Service has primary criminal investigative responsibility for certain Federal fugitives, including escaped Federal prisoners, probation and parole violators, mandatory release violators, and bond default fugitives. Our fugitive investigations involve the detailed documentation and preparation of legally sufficient cases for prosecution.

The number of Federal fugitives wanted on felony charges increases each year. Last year, the Federal courts issued more than 36,400 felony fugitive warrants. In addition, some 40,000 misdemeanor warrants were issued - and the Marshals Service is the repository for all of these warrants.

In 1985, the Marshals Service arrested 10,849 felons: 6,295 fugitive felons on primary responsibility warrants and 4,554 arrests based on warrants brought by other Federal law enforcement agencies. Among those arrests were 14 criminals on the Marshals Service list of "15 Most Wanted" fugitives.

As you may know, Mr. Chairman, it is reliably estimated that on any given day of the year, there are 300,000 fugitives at large in America. In an important, cooperative effort to deal with the almost overwhelming number of these criminals, the U.S. Marshals Service teams up with state and local law enforcement agencies in multi-jurisdictional projects called FIST - for Fugitive Investigation Strike Teams. Nine FIST operations have been completed since the inception of the program in 1981, resulting in a total of 14,770 felony arrests.

These FIST operations have been a major contributor to effective working relationships between the Marshals Service and state and local law enforcement agencies. Long after FIST operations are concluded, the participating agencies continue to share investigative information and cooperate in other aspects of law enforcement. They are also a highly cost-effective means of taking significant numbers of criminals off the streets, by concentrating Federal, state and local resources in a coordinated manner on the fugitive problem.

The Marshals Service also has an increasingly important role in international law enforcement. As a member of INTERPOL, for example, the Marshals Service conducts the majority of fugitive investigations in the United States which are requested by foreign governments through INTERPOL. In FY 1985, more than 300 such requests were honored by the Service.

The Marshals Service is also responsible for handling international extraditions involving individuals who have violated Federal criminal law. This responsibility, assigned to the Marshals Service in 1977, involves close coordination with both the foreign government and with our State Department and other Federal law enforcement agencies.

The number of international extraditions (185) increased by 52 percent last year over the previous year.

The Marshals Service also participates in the 13 Organized Crime Drug Enforcement (OCDE) Task Forces and provides civilian law enforcement assistance to the Department of Defense and the U.S. Air Force during nuclear weapons movements.

CUSTODY AND TRANSPORTATION OF PRISONERS

The responsibility of the Marshals Service for the custody, most clearly crucial to the functioning of the Federal justice system. All Federal prisoners detained for judicial proceedings are placed in the custody of a U.S. Marshal, who is also responsible for acquiring sufficient, acceptable detention space for those prisoners who must be held in non-Federal facilities.

Each individual arrested or detained for violation of a Federal statute must be brought before a magistrate or judge for an initial hearing. At the completion of the hearing, the prisoner is remanded to the custody of the U.S. Marshal until such time as the charges are dismissed or the prisoner is released on bond or personal recognizance, is tried and acquitted, or is convicted and delivered to an institution for service of the imposed sentence. More than 83,000 such prisoners pass through the Federal court system each year.

Each individual who comes into Marshals Service custody and who is not already or has not been previously in the Federal prison system is assigned a prisoner control number, fingerprinted and photographed by the Marshals Service. Records are established for criminal and personal data, personal property, medical history, and other information.

Because of the impact of the Bail Reform Act in 1984, the daily average number of prisoners in Marshals Service custody increased by 32 percent in FY 1985 over the prior year. Moreover, the average length of prisoner detention for both Federal and contract detention facilities increased from 26 days in FY 1984 to 29 days in FY 1986, an increase of 12 percent.

These increases in the daily prisoner population levels and the average length of prisoner incarceration were largely the result of three factors: the establishment of detention hearings; the more lengthy pre-trial review process, and the detention of convicted defendants who are awaiting sentencing, appeal or commencement of sentence. Each of these procedures was changed by the Comprehensive Crime Control Act of 1984.

One of the critical problems exacerbated by the increased level of prisoners under Marshals Service custody is the almost-desperate shortage of jail space. The Federal government has traditionally relied on state and local units of government to provide jail space for the housing, custody and care of persons detained for violations of Federal law, who are awaiting trial or sentencing, or who are held as material witnesses in a Federal trial. However, the Marshals Service is facing serious problems in obtaining adequate bedspace for its prisoners in cities where Federal trials are held.

During FY 1985, approximately 815 Intergovernmental Service Agreements (IGA) were in effect between the Service and state and local governments for the contracting of jail space. Although we increased the amount of jail space with such agreements, an even larger number of local jails severely restricted or terminated space for Federal prisoners. These restrictions or terminations were due to severe overcrowding and an ever increasing amount of prison litigation and court orders concerning substandard conditions of confinement. The result for the U.S. Marshals Service has been a significant increase in the number of unsentenced Federal prisoners who have to be detained in already overcrowded Federal institutions or in jails in outlying rural areas - often 100 miles or more from the Federal court.

Although the jail and prison overcrowding problem is one of national proportions over which the Marshals Service has no direct control, it seriously affects our ability to exercise responsibility for the steadily increasing numbers of persons placed in Marshals Service custody.

In addition to the custody of Federal prisoners, the Marshals Service is responsible for the transportion and timely production of prisoners for hearings, meetings with counsel, and at trials. This includes the movement of prisoners from one geographic location to another as required and for the movement of sentenced prisoners to institutions for the service of sentence, as well as the transfer of sentenced prisoners between institutions. Further, the Marshals Service is responsible for ensuring the rights, safety, and security of pretrial detainees and sentenced prisoners in our custody even while they are in transit.

Short-haul transportation is routinely completed by district office personnel in ground vehicles. Long-haul transportation is coordinated at the national level to ensure that the maximum number of prisoners are moved in the most efficient and cost-effective manner. This is accomplished by our National Prisoner Transportation System (NTPS), which utilizes Marshals Service aircraft with supporting bus and van feeder systems.

Last year, a total of 64,345 prisoner movements were conducted by the Marshals Service. I am pleased to report that, because of the efficiencies of our expanded capabilities, both the actual cost and the work years required to move prisoners has been reduced. For example, the average cost of transporting a prisoner by commercial air flight was $697; the average cost per movement by NPTS airlift was $200 per prisoner.

SPECIAL OPERATIONS

The Marshals Service has responded to emergency situations, such as civil disturbances, terrorist incidents or hostage situations where there is a violation of Federal law or Federal property is endangered. The Service maintains a highly trained force of Deputy U.S. Marshals, the Special Operations Group (SOG), for deployment at the direction of the Attorney General. Made up entirely of volunteers, the SOG deputies are located throughout the district offices and are part of the regular deputy staffing complement. These individuals, however, are subject to call when SOG forces are deployed and are capable of reporting to the target area within six hours after receiving the deployment order.

An example of the SOG function was its participation in a recent roundup in Puerto Rico of members of the Macheteros - a violent political activist group. Before the FBI began the coordinated arrest of the Macheteros, a SOG team was airlifted to Puerto Rico to take custody of the prisoners, maintain maximum security and transport them to jail facilities back on the mainland for judicial proceedings.

WITNESS PROTECTION

The Witness Protection Program has become one of the government's most effective weapons in the prosecution of major criminals. Under the program, the Marshals Service provides for the safety and welfare of government witnesses and their dependents whose lives are in danger because of their testimony in organized crime trials and other major criminal cases. Since its inception in 1970, 4,845 witnesses have entered into the program under the recommendations of a U.S. Attorney and the Criminal Division of the Department of Justice. Once admitted to the program, the Marshals Service provides around-the-clock protection while the witness is in a "threat environment" and during his return to the danger area for pretrial conferences, trials or other court appearances. Non-prisoner witnesses and appropriate dependents are moved to another locale under a new identity and provided all the necessary services to assist them in becoming self-sustaining and acclimated to the new community as soon as possible.

The guidelines of the Program provide that the Attorney General may terminate protection for any individual who substantially violates the previously agreed-upon requirements of the program.

Because of its complexity and sensitivity, the Witness Protection Program is managed centrally from Headquarters to a much greater degree than other Marshals Service programs. Our personnel coordinate with the Criminal Division of the Department of Justice to determine program participants, maintain the official records, and provide overall program direction and control.

ASSET SEIZURE AND FORFEITURE

The Marshals Service has responsibility for both seizing property forfeited to the Government and for administering the Government's program for the management and disposal of property subject to judicial and administrative forfeiture. Called NASAF for National Asset Seizure and Forfeiture, the program is administered through 14 field offices. The Marshals Service personnel in these offices provide technical assistance and support services to the U.S. Marshals and to the Organized Crime Drug Enforcement Task Forces in all parts of the country.

Like many other Marshals Service responsibilities, the seizing, managing, and disposing of forfeited property changed during fiscal year 1985 because of the extensive revisions in civil and criminal forfeiture laws and procedures produced by the Comprehensive Crime Control Act of 1984. That law strengthened the Justice Department's ability to seize and seek forfeiture of assets in key Federal criminal cases.

By the end of FY 1985, the Service had executed 3,584 seizures involving property worth $275 million. The majority of those cases stemmed from Department of Justice investigations of drug and racketeering violations. A more recent tally shows that in excess of $325 million in seized or forfeited property is under Marshals Service custody.

By far the largest single asset category in terms of value is real property, amounting to approximately 40 percent of seized assets. Cash is the second largest category, 33 percent of total assets. A broad category including jewelry, artwork, electronic equipment, weapons and antiques amounts to 20 percent of seized properties. The smallest and last category is composed of conveyances - automobiles, boats and aircraft, totaling 7 percent.

The upward trend in both seizures and the value of properties in Marshals Service custody is expected to continue as investigative agencies and prosecutors develop expertise and knowledge in the use of this authority.

The responsibility of the Marshals Service does not end with the seizure of properties. To insure that the government receives the most benefit from the seizures and to prevent damage or deterioration to properties that are subject to litigation, the Service is responsible for managing and ultimately disposing of the properties. Both the growing number and the increasing complexity of the seizures increase the complexity of our management function.

Among the seized properties under Marshals Service management during the past year were: commercial and residential properties valued at more than $1.5 million in Mobile, Florence, Pelham, Willen and Muscle Shoals, Alabama; 1,000 acres of land in Newport, Vermont; a restaurant, cattle ranches, and two Lear jets in Arizona. We also had: a recording studio in California; a brass and aluminum foundry in Wisconsin; drug stores and a golf course in Michigan; and hundreds of other properties across the nation.

In order to maintain these properties prior to sale or, if ordered by the court to return them to the original owner, the Marshals Service arranges for professional management of the properties.

Another provision of the Comprehensive Crime Control Act of 1984 provided for the transfer of forfeited property to state or local law enforcement agencies that participated in the investigation leading to the seizure. The Department of Justice began transferring physical property to participating state and local agencies early in 1985. Transfers of cash and the proceeds of sale of physical property commenced in August of 1985. More than $4 million have been transferred under that program authority.

EXECUTION OF COURT ORDERS

The Marshals Service is responsible for the execution of hundreds of thousands of pieces of process for the Federal courts, U.S. Attorneys, private litigants, and other Federal agencies. The U.S. Marshal, through his deputies, is responsible for serving the process, either personally, via U.S. mail or other approved means. This process covers a wide range of types, including summonses and complaints in civil actions, subpoenas in both civil and criminal actions, writs of habeas corpus, and writs of attachment.

In FY 1985, the Marshals Service executed 338,163 court orders, excluding warrants. The time spent in this activity accounted for 14 percent of the average operational employees' duty hours.

Regardless of whether the process is on behalf of the government or private litigants, execution of process is accomplished either by personal service or by mail, with the larger portion executed personally. In FY 1985, 91 percent of all criminal process was executed personally while 47 percent of all civil process served was executed in person. Because this function is both extremely costly and a poor use of highly trained law enforcement personnel, we are seeking in our legislative proposal the authority to employ a more efficient method of executing government process, which I will address in a few moments.

I trust, Mr. Chairman, that this summary of the major functions of the Marshals Service provides an appropriate basis for discussion of the Department's legislative proposal, S. 2044, which is before the Subcommittee. I have submitted to the Subcommittee additional details regarding our activities in a report entitled "The United States Marshals Service in FY 1985".

S. 2044

As I indicated at the outset of my remarks, the role of the Marshals Service has evolved and expanded over the almost 200 years since the office of the U.S. Marshal was established.

Unfortunately, the statutory basis for the functions and reponsibilities of the Service has not kept pace with the evolution.

The bill will codify the establishment of the U.S. Marshals Service as a bureau of the Department of Justice and provide for the appointment of its director by the Attorney General. It will also modify the current procedure relating to the appointment of acting Marshals in the event of a vacancy in that office. Currently, when a position of U.S. Marshal becomes vacant, the pertinent district court appoints an interim Marshal.

When the current practice was established and throughout the next century, when communications between the seat of Government and the Federal districts on the frontiers of a developing nation were slow and difficult, it may have been necessary to provide for interim Marshal appointments by the district court. With today's modern communications, that practice is unnecessary.

S. 2044 provides for the appointment of an acting Marshal by the Attorney General, pending nomination of a candidate by the President and confirmation by the Senate of a U.S. Marshal for the full term of office.

The bill also provides the authority for the Marshals Service to enter into personal service contracts with individuals for the service of process and to serve as guards at Federal court buildings. As I noted earlier, the currently existing necessity to utilize trained law enforcement officers for the service of process is a costly and wasteful use of Marshals Service personnel.

One of the most important sections of the bill is Section 566, which summarizes the powers and duties of the Marshals Service, particularly as they relate to the Federal courts. It reiterates the Service's longstanding responsibility to "provide for the safety and security of the Federal courts of the United States." However, S. 2044 explicitly provides that the safety and security function along with other assistance provided the courts is to be in accord with policies established by the Attorney General.

This section also requires the Marshals Service to "execute all lawful writs, process and orders issued under the judicial authority of the United States, in accordance with the policies established by the Attorney General."

I want to emphasize, Mr. Chairman, that these and other provisions of S. 2044 do not, in any way, lessen the historic responsibility of the U.S. Marshal to provide vital assistance to the courts. When enacted, however, they will cause the statutes to reflect what the Federal courts have repeatedly found in judicial proceedings: that the Marshals Service is an Executive Branch agency. Moreover, the statutes will more accurately reflect current practices and policies which have been developed in consultation with representatives of the Federal judiciary.

Two somewhat similiar provisions of S. 2044 concern the fees collected by the Marshals Service for serving writs, subpoenas and other court orders or process, and the commissions collected in connection with the seizure or disposal of property in accordance with court orders.

Under current law, the maximum fee charged for serving court process is $3.00, considerably less than actual cost of such service. As a consequence, the American taxpayer is subsidizing private litigants in the Federal court system.

S. 2044 would eliminate the $3.00 fee and authorize the Attorney General to set the cost at a level that reflects the actual reasonable cost of the service provided. It would also permit the Attorney General to establish minimum and maximum amounts collected as commissions on the sale of property for private litigants. This is intended to remove all questions as to the Marshal's entitlement to a reasonable commission while, at the same time, eliminating the possibility of excessive charges resulting from a statutorily fixed percentage.

Finally, Mr. Chairman, S. 2044 would give permanent authority for the Cooperative Agreement Program (CAP), which I briefly mentioned earlier. Under this program, Federal funds are provided by the Marshals Service to state and local authorities to improve their jail facilities in exchange for the housing of Federal prisoners. These local institutions confine and provide medical care for unsentenced Federal prisoners, certain sentenced Federal inmates, detained aliens and other Federal prisoners required as witnesses in Federal judicial proceedings. The jail space provided under this program for prisoners in Marshals Service custody is critical to the fulfillment of our responsibilities. As I noted earlier, however, the epidemic overcrowding in state and local facilities continually reduces the number of spaces available for our prisoners. The CAP program is our most effective means of generating additional capacity in local jails that can be made available for Federal prisoners.

Additional provisions of S. 2044 would streamline the operational and administrative authority of the Marshals Service. We believe enactment of S. 2044 would cause the statutes to reflect more accurately what President Reagan called "the central position in the Federal justice system" occupied by the U.S. Marshals Service.

Mr. Chairman, I will be pleased to respond to any questions you or the members of the Subcommittee may have.

U.S. Department of Justice

United States Marshals Service

Director

One Tysons Corner Center
McLean, Virginia 22102

JUL 18 1985

The Honorable Jeremiah Denton
Chairman
Subcommittee on Security and
  Terrorism
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Thank you for your thoughtful letter concerning my recent testimony before the Subcommittee. The opportunity you provided for a thorough presentation of Marshals Service activities and your complimentary remarks concerning them are deeply appreciated.

Enclosed are responses to the written questions that accompanied your letter. Please let me know if you desire any additional information.

Sincerely,

Stanley E. Morris

Enclosure

1. JAIL SPACE

Q. What is the status of the National jail space crisis? How has it affected U.S. Marshals Service resource requirements?

A. The Bureau of Justice Statistics Report entitled Jail Inmates 1984 which was printed in May 1986, confirms the continuing problems of overcrowding and substandard conditions in local detention facilities. Inmate population levels (234,500 as of mid 1984) continue to grow rapidly (up 5 percent from 1983). It is interesting to note that 74 percent of all the Nation's inmates are being held in 621 jails with population levels of 100 or more. Twenty-four percent of these jails held inmates due to overcrowding elsewhere, 22 percent were under court order to reduce their inmate population, 13 percent to improve recreational facilities, and 11 percent to improve medical facilities and services.

The overcrowding in state penal systems has increased the pressures on local jails as transfers of state prisoners to state facilities are delayed or even halted entirely due to lack of space. Several states have passed legislation which requires counties to hold prisoners for short-term sentences instead of transferring the prisoners to overcrowded state facilities.

The local jail crowding problem has had a dramatic impact on both the Service and the Bureau of Prisons which has been required to accept large numbers of pre-trial prisoners into already seriously overcrowded Federal facilities. For example, the Bureau's institutions in New York City, Miami and San Diego are setting record levels. The Miami Metropolitan Correctional Center has experienced an increase of from 250 Marshals Service prisoners in 1982, to over 750 in July 1986. The New York institution is now sending the overflow of prisoners held for trial to their facilities in Ottisville, New York.

Our Rhode Island District has lost all local space for male prisoners in state facilities due to Federal court imposed consent decree population levels and is now transporting prisoners to and from New Hampshire to attend Federal court. Very serious prison overcrowding conditions in Puerto Rico have forced the removal of Federal prisoners awaiting trial to Miami and New York.

Prisoners from Portland, Oregon have been housed in local jails in Idaho because of serious space shortages in Portland and Eugene. Tampa, Florida prisoners awaiting trial are routinely housed overnight in jails located hundreds of miles (round-trip) away from our office.

Since 1979, the number of operational work hours expended on the transportation and production of prisoners from jails to courts each day has increased 102 percent. Not only is this practice considered wasteful of staff and fiscal resources, it is not in the best interest of the safety of our personnel and the public, and has imposed restrictions on the access to prisoners by their defense counsels.

2. COMPREHENSIVE FORFEITURE ACT

Q. There have been several bills introduced in the Congress which would draw upon funds generated from the sale of forfeited assets. Have you identified any purpose towards which these funds could be directed which would be in keeping with the intention of the Comprehensive Forfeiture Act?

A. The law allows the Attorney General to share proceeds from the sale of forfeited assets with State and local police agencies which participated in the criminal investigation. We are obviously becoming very successful in our criminal prosecutions and forfeitures, which is generating more prisoners and a need for jail and prison space.

It would appear most ironic if part of the funds returned from the forfeitures were spent to construct the State, local and Federal facilities where the previous owners of local assets were incarcerated. While investigating agencies are now sharing assets, our overloaded correctional systems and Sheriffs Departments are paying the long-term price, often without adequate funding support.

From our perspective, Asset Forfeiture Funds would be an excellent source for our Cooperative Agreement Program. It would be a form of sharing that would benefit both Federal and local agencies who are involved extensively at the end of the criminal investigation process. Funds could also be directed for the construction of desperately needed Federal prison facilities where all of our previous criminal owners of assets eventually spend one to twenty years.

3. FEDERAL EXCESS PROPERTY PROGRAM

Q. Please provide us with a brief summary of the Service's Federal Excess Property (FEP) Program. How is it administered? What are its achievements to date? What future initiatives are planned?

A. In 1982, the Service obtained authorization from the Department of Justice to implement the Federal Excess Property Program. The only authorized participants are those state and local detention facilities which have entered into a formal agreement (IGA) with the Service for the care and housing of Federal prisoners. When personal property such as furniture, equipment, clothing, linens, or consumable supplies are determined by a Federal agency to be "excess", only other Federal agencies can acquire such items. State and local governments cannot obtain property until it has been declared "surplus" (i.e., no other Federal Agency wants the item).

Through the FEP Program, state and local governments can obtain items at the "excess" property level where selection and quality are more desirable. Title to all accountable property remains with the USMS and thus the USMS must maintain full accountability. The value of property obtained each year cannot exceed contract payments and property records at the contract facility, district and Headquarters level must be maintained. Contract jails have been highly receptive to the Program and the Service has been able to utilize facilities which previously refused to house Federal prisoners.

To date, the Service has provided approximately $7 million in Federal excess property (72% of which is consumable property) to approximately 300 jails located in 73 judicial districts. The FY86 FEP Program helped equip an inmate occupational training school offering vocational training to inmates at the Harrison County Jail in the Southern District of Mississippi in the areas of agriculture, auto mechanics, food preparation and welding, as well as a GED preparatory course.

The FEP Program made possible the opening of a satellite detention facility with a capacity of 250 for work release prisoners (to inclued BOP prisoners) at the Mecklenburg County Jail in the Western District of North Carolina. This enabled the jail to increase the amount of detention space available for unsentenced prisoners in the jail.

In order to minimize USMS and local administrative overhead, we will be requesting authorization to donate accountable property under this program this year.

4. FARMERS HOME ADMINISTRATION LOANS

Q. In addition to your agency's role in the asset seizure program, Marshals are involved in other seizure and forfeiture activities. A recent GAO report indicated that there are over 37,000 delinquent Farmers Home Administration loans which are subject to foreclosure actions on real property. Could the Marshals Service handle such a caseload, or are there other alternatives available?

A. In the event that there is an increase in foreclosures, our rural districts would not be in a position to support the Farmers Home Administration. The law does not, however, require the Marshals Service to notice the property, advertise, and conduct a FMHA sale. This can and more properly should be done directly by FMHA state and local staff who are knowledgeable of the area and the property. We are now working at our district office level to shift this responsibility to the FMHA, which could operate a foreclosure and sale program like that of HUD or the VA, which from our perspective is more timely and generates a higher return on sales.

5. COOPERATIVE AGREEMENT PROGRAM

Q. How does the Service's Cooperative Agreement Program (CAP) work and what are its achievements to date? Is it a cost effective program?

A. The CAP Program is not a grant program and is made available only to major use jails with substandard conditions of confinement in those metropolitan areas where the Service is experiencing detention space shortages. The program is managed at USMS Headquarters where CAP needs by major metropolitan areas are "targeted". Based upon funding availability, certain local governments are targeted for negotiations, and if successful, a formal CAP Agreement is executed. The CAP Agreement provides for the funding of specific jail improvements and/or construction projects to be undertaken by the local government in return for guaranteed bedspace being available for Federal prisoners for a set number of years. On-site monitorship of work progress is performed by the local U.S. Marshal, with payments made to the local goverment on a reimbursement basis (after work is completed).

To date, a total of 64 Agreements have been negotiated in 51 Federal court cities for 2,838 guaranteed bed spaces at a cost of $46.8 million.

The CAP Program has proven to be extremely cost effective as these 2,838 maximum security bedspaces have been acquired at a cost of only $16,500 per bedspace. Generally, the national average to construct new maximum security bedspace ranges between $50,000 - 60,000 a bed. In a number of instances, maximum security bedspace in existing overcrowded local jails has been freed up for Federal prisoners through the creation of lower cost work release centers for local prisoners requiring only minimum security.

The Service is currently proposing permanent authorization for the CAP Program and we feel that its continuation and expansion is essential if the Service is to continue to fully support the judiciary, the Comprehensive Crime Control Act (CCCA), as well as the Administration's war on Organized Crime and Drug Enforcement.

6. COMPREHENSIVE CRIME CONTROL ACT

Q. What impact has the Comprehensive Crime Control Act (CCCA) had on the Cooperative Agreement Program (CAP)?

A. The act has definitely generated more detained Federal prisoners and has placed a heavy requirement on the CAP Program to generate more space. While the gains to date for the CAP Program are impressive, the dramatic increase in the Service's average daily population levels has served to dilute somewhat the impact of the bedspace generated through the CAP Program.

While the CAP Program has obtained 2,838 bedspace, some of those were bedspaces currently being used and which would have been lost without CAP funds. From the 1st Quarter to the 2nd Quarter of this fiscal year, our daily population has jumped by 1,000 prisoners a day (up 14% 6,540 to 7,469) which tends to substantiate projections for significant increases in bedspace requirements by FY88.

7. BAIL REFORM PROVISIONS

Q. What impact have the Bail Reform Provisions of the

Comprehensive Crime Control Act (CCCA) had on the United States Marshals Service's Detention Program?

A. The CCCA has had a dramatic impact on the Service's Detention Program and it appears that it will have significant budgetary funding implications for the Support of Prisoners Appropriation from FY86-88. Our daily prisoner population continues to grow rapidly as more individuals are refused bond under the Bail Reform Provisions.

From FY84 to FY86, our daily population level grew 30%, average stay increased 25%, contract jail days grew 29% and Federal jail days increased 33%. This has translated into rapidly increasing contract jail payments as well as added pressure on already severely limited jail space at both local and Federal detention facilities. The CCCA has also had a great impact on DUSM Operational workyear requirements. As an example, the number of work hours for DUSM in court with prisoners grew an astounding 32% as detention hearings under CCCA became more complex and lengthy.

8. COST OF MOVING

Q. Does the Marshals Service pay the cost of moving newly recruited deputies and their families to their first duty station? Do any law enforcement agencies of the Justice Department pay such costs?

A. No. The Service cannot pay relocation expenses to DUSM recruits and their families. Both the FBI and DEA pay expenses pursuant to a statutory authority that applies only to them. Our inability to pay such expenses causes severe hardship to our recruits because of the low salary structure of deputies. The low salary also forces us to recruit new deputies from economically depressed areas and send them at great personal expenses to our larger offices which are located in high cost of living areas. Our salaries are not competitive with salaries paid local law enforcement officers in areas such as Los Angeles, New York City, San Francisco and Miami. Consequently, our lower entry-level salaries coupled with our inability to pay moving expenses cause severe difficulties for both the USMS and its recruit deputies.

M. NATIONAL ASSET SEIZURE AND FORFEITURE PROGRAM

Q. After more than a year's experience managing the National Asset Seizure and Forfeiture Program (NASAF), can you tell the Subcommittee that it is working and achieving its objectives?

A. From the prosecutive point of view, the program is serving its purpose as an excellent tool to both punish criminals by depriving them of the proceeds of crime and by disrupting criminal operations. From the property management prospective, the program has generated sufficient funding to enable the Department to store, manage, maintain, and dispose of assets while generating increasing levels of funding to be returned at the end of the fiscal year to the Treasury.

We anticipate that by the end of the year, there will be approximately $360 million of seized or forfeited property in the running inventory, with nearly $50 million available for transfer to the Treasury. The Department will also share approximately $12 million of assets or proceeds from the sale of forfeited assets with state and local agencies which participated in the criminal investigation. This provision of the forfeiture statutes is seen as fostering local-Federal cooperation.

APPENDIX

ADDITIONAL SUBMISSIONS FOR THE RECORD

United States Senate
COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510

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JOEL S. LISKER, CHIEF COUNSEL AND STAFF DIRECTOR

29 May 1985

Honorable Charles A. Bowsher
Director
General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Bowsher:

The purpose of this letter is to request that you authorize a General Accounting Office investigation directed at the feasibility of assigning responsibility for the Federal Bureau of Investigation's Unlawful Flight to Avoid Prosecution (UFAP) program to the U.S. Marshals Service. I discussed this issue with Judge Webster during the FBI Oversight and Budget Authorization hearing held on April 3, 1985. Judge Webster agreed that the matter might best be resolved by a GAO investigation.

After the oversight hearing, I asked my staff to review a Justice Department audit report entitled, "Fugitive Apprehension Activities of the Federal Bureau of Investigation and United States Marshals Service" (copy attached). The report, dated August 1984, seemed to suggest that the Marshals Service could perform the function of fugitive apprehension quicker and at less cost than the FBI. Reinforcing this idea, Stephen S. Trott, Assistant Attorney General for the Criminal Division, Department of Justice recently stated, "The Marshals have become very adept at bringing fugitives to justice, finding and arresting almost 7,000 fugitives in this country since 1980."

A point of contact on the investigation which I have requested will be Joel S. Lisker, Chief Counsel of this Subcommittee.

Your attention to this matter is greatly appreciated.

Sincerely,

Jeremiah Denton

Jeremiah Denton
[illegible]

United States Senate

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WASHINGTON, DC 20510

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JOEL S. LISKER, CHIEF COUNSEL AND STAFF DIRECTOR

26 September 1985

Honorable Edwin Meese, III
Attorney General
U.S. Department of Justice
10th and Constitution Avenue, N.W.
Washington, D.C. 20530

Dear Mr. Attorney General:

The purpose of this letter is to obtain the position of the Department of Justice on assigning responsibility for the Federal Bureau of Investigation's (FBI) Unlawful Flight to Avoid Prosecution (UFAP) program to the U.S. Marshals Service. The FBI's UFAP program involves subjects of state and local felony warrants for whom federal arrest warrants were issued based on evidence that they had fled the state to avoid capture. Currently, both the FBI and Marshals Service have responsibility for fugitive apprehensions. The division of responsibility is based on a 1979 agreement between the FBI and the Marshals Service.

The feasibility of assigning UFAP to the Marshals Service has been addressed in an August 1984 audit report prepared by your Justice Management Division (Report #4-812). Essentially, your auditors concluded that the FBI and the Marshals Service were both successful in fugitive apprehensions, the Marshals Service's skills were consistent with those required for most UFAP cases, and the Marshals Service's efforts were less costly. The auditors cautioned, however, that a decision on the placement of UFAP should be delayed until a full assessment is made of:

-- the actions taken or planned to improve the FBI's and the Marshals Service's case management and reporting procedures;

-- the total resources which would be required by the Marshals Service to accomplish the additional responsibilities, as well as those for which it is currently charged; and

-- the costs for the Marshals Service to manage the UFAP program at the level of effectiveness demonstrated by the FBI.

So that we can fully assess the feasibility of transferring UFAP to the Marshals Service, I would appreciate your response to the following:

1. What is the Department's position on assigning UFAP to the Marshals Service?

2. Has the Department made the assessments recommended by the auditors? If so, what were the results? If not, why not?

3. Have the improvements been made in the FBI's and the Marshals Service's case management and reporting procedures? If so, please describe the improvements. If not, why not?

4. How much would it cost and what additional staff would be needed for the Marshals Service to manage UFAP at the level of effectiveness demonstrated by the FBI?

5. How would the FBI use the resources which would be freed up if UFAP was transferred to the Marshals Service?

6. Has the Department, as recommended by your auditors, taken action to improve the coordination and cooperation between the Justice law enforcement agencies involved in fugitive apprehension? If so, please describe the actions taken. If not, why not?

The point of contact for this request will be Joel Lisker, Chief Counsel of this subcommittee. Please respond to this request within 30 days. Your timely attention to this matter will be greatly appreciated.

Sincerely,

Jeremiah Denton

Jeremiah Denton
United States Senator

JD:lj

U.S. Department of Justice
Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

February 19, 1986

Honorable Jeremiah Denton
Chairman
Subcommittee on Security and Terrorism
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is in further response to your letter of September 26, 1985, concerning the feasibility of transferring the Federal Bureau of Investigation's (FBI) Unlawful Flight to Avoid Prosecution (UFAP) Program to the U.S. Marshal Service (USMS). I apologize for the delay in responding but we have only recently concluded our review of this proposal.

In summary, we do not believe that transfer of the UFAP Program is advisable. Before proceeding to respond to the six specific questions in your letter, let me provide some general background.

First, as you know, the FBI has investigative jurisdiction over most federal criminal offenses. Over the years, the FBI has been able to attract high quality agents to service 59 Field Offices and 414 resident agencies throughout the country, supported by a nationwide communications and information retrieval system. FBI Special Agents are well suited by education, training, experience, organization, and support systems to carry out complex and demanding law enforcement assignments such as UFAP fugitive investigations. Indeed, the record of the FBI since the UFAP Program was established over a half century ago (1934) has been a most impressive one.

During FY '85, for example, the FBI arrested 781 UFAP subjects and located an additional 447 subjects for a total of 1,220. It should be noted that UFAP arrests represent only 9% of the FBI's total 8,535 arrests during FY '85; the 447 UFAP "locates" in FY '85 are part of the total 1,645 subject "locates." Included in these figures are the 139 parental kidnapping fugitives and 94 abducted children either taken into custody or located for state and local officials. It should be borne in mind that apprehension of a fugitive is often accompanied by collection of physical and testimonial evidence which can be highly important in connection with any judicial proceedings involving the fugitive. Such evidence, if not properly obtained and preserved, may be held inadmissible. FBI Special Agents receive extensive training in the handling of evidence protecting against mistakes which could result in the loss of valuable evidence.

In light of the FBI's continuing good record in processing UFAP warrants, we see no compelling reason to transfer the UFAP Program to another part of the Justice Department.

This is not to say that the USMS will not continue in its present role in fugitive investigations. In 1979, the USMS was assigned primary jurisdiction for particular fugitive cases. During that time, and particularly within the past two years, the USMS has made remarkable progress in its ability to discharge its fugitive responsibilities through its Fugitive Investigative Strike Team (Fist) Program. In fact, the success of the FIST Program has been one of the hallmarks of progress in strengthening law enforcement efforts among federal, state and local agencies.

Proceeding now to your specific questions, our response to Question # 1 is that we oppose transfer of the UFAP Program to the USMS based upon the considerations set out above.

With respect to Question # 2, the specific recommendations made in the internal audit report and our reactions thereto are set out in the responses to Questions # 3 and 4 below.

In response to Question # 3, we believe the deficiencies noted in the audit report as to the FBI's case-management and reporting system were the result of human error rather than the management and reporting system itself. More specifically, certain statistical information provided to the auditors by the FBI was inaccurate due to the transposition of data which produced the discrepancies noted by the auditors. This has been corrected and the data in question are now closely reviewed by supervisory personnel to minimize the possibility for repetition of such errors. The FBI maintains a comprehensive and detailed case management and reporting system which routinely collects data regarding caseload, workhours, and statistical accomplishments. This system, known as the Resource Management Information System (RMIS), covers every type of violation investigated and permits the FBI to monitor the UFAP Program. We believe RMIS fully meets the requirements for effective management of the UFAP and other FBI programs and, like other FBI systems, RMIS is subject to periodic review and re-evaluation with a view toward ensuring that it meets the need of managers.

The USMS case reporting and management system related to fugitive investigations is in the process of being replaced with a new Warrant Information Network (the WIN System), which will provide a data base for statistical management and case evaluation, as well as providing intelligence data with respect to specific fugitive cases. This new computerized data system is already operating in five districts, and is expected to be operational on a national basis by the end of calendar year 1986 (assuming the availability of funds for hardware costs). We believe this new USMS data system will overcome the deficiencies of the prior system.

With respect to Question # 4, because we do not support transfer of the UFAP program, any dollar and manpower estimates would be speculative and artificial.

As for Question # 5, the FBI estimates the manpower commitment to the UFAP Program at 167 Special Agents and 5 support staff workyears. Should the UFAP Program be removed from the FBI, those resources would be allocated to programs in which resource needs exceed funding, unless the Congress simply reduced FBI appropriations by the amount of the savings. Given our view that transfer of the UFAP Program would be inadvisable, we have not attempted to identify specifically which FBI programs would receive allocations.

Finally, in response to Question # 6, we have sought to improve coordination among our agencies with respect to fugitive apprehension. One manifestation of this effort is the amendment to the Code of Federal Regulations (copy enclosed) which is intended to clarify those fugitive matters with respect to which

USMS has primary responsibility. Several meetings have been convened over the past few months with respect to questions which have arisen in particular cases and we will endeavor to ensure that the agencies continue to report any problems which may arise in the fugitive area so that such problems can be quickly addressed and remedied. Given the nature of criminal law enforcement and the great number of fugitive matters in our inventory, I do not doubt that many improvements can yet be made in fully integrating and harmonizing our fugitive investigations. At the same time, I believe that the various agencies are aware of their responsibilities in this area and that mechanisms exist for prompt resolution of any problems which may arise with respect to the handling of specific fugitive cases.

We welcome your interest in this important area of law enforcement activity and trust that the information set out above will be responsive to your inquiry.

Sincerely,

D. Lowell Jensen
Deputy Attorney General

Enclosure

United States General Accounting Office

GAO

Briefing Report to the Chairman,
Subcommittee on Security and
Terrorism, Committee on the Judiciary
United States Senate

September 1986

CRIMINAL JUSTICE

Who Should Be Responsible for State Fugitives -- the FBI or U.S. Marshals?

GAO United States
General Accounting Office
Washington, D.C. 20548

General Government Division

B-222790

September 10, 1986

The Honorable Jeremiah Denton
Chairman, Subcommittee on Security
  and Terrorism
Committee on the Judiciary
United States Senate

Dear Mr. Chairman:

This briefing report responds to your request of May 29, 1985, in which you asked us to review the feasibility of transferring to the U.S. Marshals Service responsibility for the Federal Bureau of Investigation's (FBI) Unlawful Flight to Avoid Prosecution (UFAP) program. Under the UFAP program, the FBI assists state and local governments in apprehending state and local fugitives who are believed to have fled the state to avoid prosecution, custody, confinement, or giving testimony. The Marshals Service already has primary responsibility for apprehending certain federal fugitives such as prison escapees, bond defaulters, and parole violators.

During discussions with Subcommittee representatives, we learned that you were interested in the feasibility of transferring the UFAP program for two primary reasons: (1) a Department of Justice 1984 internal audit report seemed to suggest that the Marshals Service could perform UFAP investigations at less cost than the FBI and (2) transferring the UFAP program to the Marshals Service could free FBI resources to work on higher priority matters such as terrorism and foreign counterintelligence. We agreed to perform some limited audit work to look into these issues as well as obtain information on arguments raised by FBI officials against transferring the program to the Marshals Service.

We interviewed FBI, Marshals Service, and other Justice Department officials; representatives from U.S. attorney offices in the District of Columbia, Maryland, and the Eastern District of Virginia; and state and local criminal justice officials in Maryland. We reviewed the 1984 Justice internal audit report and supporting workpapers. We also analyzed available budget and program data and other specific information which FBI and Marshals Service officials developed at our request. Our work was conducted between June 1985 and June 1986, in accordance with generally accepted government auditing standards, except that we did not verify the reliability or validity of the statistics and UFAP case examples provided to us.

We briefed Subcommittee representatives on the status of our review in March 1986 and again in July 1986 after we had completed our work and discussed the results with FBI and Marshals Service officials. This letter summarizes the information we provided at those briefings. Additional information as well as the details concerning our objectives, scope, and methodology are contained in the appendixes.

COST SAVINGS

The 1984 Justice internal audit report concluded that both the FBI and the Marshals Service were effectively performing fugitive investigations and that transferring the UFAP program to the Marshals Service might result in cost savings. The auditors recommended, however, that the program not be transferred to the Service until a full assessment was made of the additional resources the Service would need and an analysis was made of what it would cost the Service to manage the program at the same level of effectiveness as the FBI. The Department of Justice has not performed the assessment and analysis recommended by the report.

On the surface, it appears that transferring the UFAP program to the Marshals Service might save money. As shown in table 1, the Marshals Service fiscal year 1985 estimated cost per staff year for all of its fugitive investigations was $2,997 less than the FBI's estimated cost per staff year for all of its fugitive investigations. The FBI's staff year cost is higher primarily because FBI agent salaries are higher than salaries for Marshals Service deputy marshals and criminal investigators. (See app. VI.)

Table 1

Estimated FBI and Marshals Service
Fugitive Costs and Staff Years
Fiscal Year 1985

	FBI	Marshals Service	Difference
Estimated costs (in thousands)	$20,573	$18,252	-$2,321
Staff years	366	343	- 23
Estimated cost per staff year (estimated costs divided by staff years)	$56,210	$53,213	-$2,997

However, as shown in table 2, when the FBI's estimated costs and staff years for UFAP investigations only are compared to the Marshals Service's estimated costs and staff years for performing felony fugitive investigations only, the Marshals Service cost per staff year is $2,604 higher than the FBI's. The major reason that the Marshals Service's cost per staff year for its felony fugitive investigations is higher than the FBI's cost per staff year for UFAP investigations is that the Marshals Service's nonsalary costs are higher and offset the higher salaries of FBI agents. (See app. VI.)

Table 2

Estimated FBI UFAP and Marshals Service Felony Fugitive Costs and Staff Years Fiscal Year 1985

	FBI UFAP	Marshals Service Felony Fugitive	Difference
Estimated costs (in thousands)	$16,690	$16,880	+$ 190
Staff years	298	288	- 10
Estimated cost per staff year (estimated costs divided by staff years)	$56,007	$58,611	+$2,604

We do not know which cost estimates are more appropriate for comparing the two agencies' fugitive investigation costs. Neither the FBI nor the Marshals Service can determine costs for individual fugitive investigations. However, even if the estimates that show that the Marshals Service cost per staff year is lower were the most appropriate estimates to use, we do not know if there would be any cost savings if the program were transferred, principally because we do not know how many additional staff the Service would need to perform UFAP investigations.

Marshals Service officials advised us that they would need additional staff if the UFAP program were transferred. However, neither the Justice Department nor the Marshals Service would provide an estimate of the number of additional staff needed. If the Marshals Service needed fewer or the same number (298) of staff years to perform UFAP investigations as the FBI expended in fiscal year 1985, and the Service's cost per staff year for UFAP investigations remained the same as its cost ($53,213) per staff year for all of its fugitive investigations, then there would be savings by transferring the program. As shown in table 3, $833,000 would be saved if the Marshals Service would need the same number of staff years as the FBI expended in fiscal year 1985. However, if the Marshals Service needed 314 or more staff years, it would cost more to have the Marshals Service conduct UFAP investigations.

Table 3

Estimated Marshals Service Costs to Perform UFAP Investigations at Different Staffing Levels

Marshals Service estimated cost per staff year		Number of staff years	Total	FBI 1985 UFAP estimated cost	Difference
			-------------	In Thousands	-------------
$53,213	x	298	$15,857	$16,690	-$ 833
$53,213	x	313	$16,656	$16,690	-$ 34
$53,213	x	314	$16,709	$16,690	+$ 19

Also, we do not know what effect UFAP investigations would have on the Service's cost per staff year. The Justice internal auditors noted that UFAP cases were more complex than most of the Service's fugitive cases since UFAP cases generally involved more violent offenders and required substantially more investigative effort over a much larger geographic area than most of the Service's cases. If as a result of receiving responsibility for UFAP investigations the Service had to open more offices, pay more overtime and travel costs, provide more training, and/or purchase more investigative equipment, then the Service's cost per staff year could increase. If the Service's cost per staff year increased to $56,007 (the FBI's cost per staff year for UFAP investigations), and the number of staff years needed was 298, then no cost savings would occur. In addition, a combination of increased staff years and increased cost per staff year for the Marshals Service could reduce or eliminate any cost savings.

FREEING FBI AGENTS TO WORK ON HIGHER PRIORITY MATTERS

Another reason to consider transferring the UFAP program is that instead of hiring additional staff, the FBI could use the resources currently assigned to the UFAP program for higher priority programs such as terrorism, organized crime, foreign counterintelligence, and white-collar crime. This is a valid reason for considering transferring the program and was the reason the Justice Department assigned some of the FBI's fugitive investigative responsibilities to the Marshals Service in 1979. However, the Deputy Attorney General declined to identify where any freed-up resources would be used.

Another matter to be considered regarding the transfer is the impact it would have on the Marshals Service. If the Service were provided with sufficient resources to carry out the UFAP program without having to reduce resource levels in its other areas of responsibility, then the impact of the transfer might be minimal. If, however, the Service were not provided sufficient resources to carry out the UFAP program, then either the UFAP program or the other Service programs, such as judicial security and handling of federal prisoners, could suffer.

FBI ARGUMENTS AGAINST THE TRANSFER

FBI officials cited 14 arguments against transferring the UFAP program to the Marshals Service. They provided information which tended to support the following 10 arguments.

--The FBI has offices in more locations than the Marshals Service which can facilitate performing UFAP investigations. (See p. 20.)

--The FBI has better after-hours coverage in its offices than the Marshals Service. (See p. 21.)

--The responsibility of the U.S. Marshals to both the courts and the Justice Department could adversely affect the Service's capability to pursue UFAP fugitives. (See p. 22.)

--The FBI has a strong network of offices to assist each other on UFAP investigations. (See p. 24.)

--The FBI's detailed case files can facilitate capture of criminals whom the FBI previously investigated. (See p. 26.)

--The FBI develops information during UFAP investigations that support state and local prosecution efforts. (See p. 27.)

--The FBI has special equipment readily available at FBI headquarters and field offices for use in locating or apprehending UFAP fugitives. (See p. 28.)

--The FBI has a greater capability to mobilize staff to work on hot leads or higher priority cases than the Marshals Service. (See p. 29.)

--UFAP investigations often lead to the identification of other crimes. (See p. 29.)

--UFAP investigations allow FBI agents to develop informants useful in other FBI law enforcement programs. (See p. 30.)

Although the FBI provided information to support these arguments, we could not determine how often these situations or results occur in UFAP cases or what actions could be taken by the FBI or the Marshals Service to offset any problems or disadvantages that may occur if the UFAP program were transferred.

The other arguments cited by FBI officials were that

--UFAP investigations provide good training for FBI agents (see p. 30),

--UFAP investigations are a morale boost for FBI agents (see p. 31),

--the UFAP program allows the FBI to maintain contact with and to pay back the assistance it receives from state and local law enforcement agencies (see p. 31), and

--the "flying squads" (mobile task forces) and joint federal and state task forces used by the Marshals Service are not sound approaches for UFAP investigations (see p. 25).

We found that while the FBI might experience some degradation in agent training or morale or in the assistance provided state and local law enforcement agencies if the UFAP program were transferred, the FBI did not provide information that significant problems would occur in these areas. Also, Marshals Service officials have stated that the Service would not routinely use a task force approach if it had responsibility for UFAP investigations.

- - -

We do not believe there are any clear-cut answers as to whether or not the UFAP program should be transferred to the Marshals Service. The matter appears to be a policy decision for the administration or the Congress to make. In his February 19, 1986, letter to you, the Deputy Attorney General stated that the Justice Department sees no compelling reasons for transferring the program.

As requested by Subcommittee representatives, we did not obtain official agency comments on this report. However, we briefed FBI and Marshals Service officials on the results of our work. We trust this information will be useful in your consideration of this issue. As arranged with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution until 5 days from the date of this report. At that time, we will send it to interested parties and make copies available to others upon request.

Sincerely yours,

Arnold P. Jones

Arnold P. Jones
Senior Associate Director

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Abbreviations

FBI	Federal Bureau of Investigation
UFAP	Unlawful Flight to Avoid Prosecution

TRANSFERRING THE UFAP PROGRAM FROM THE FBI TO THE MARSHALS SERVICE

OBJECTIVES, SCOPE, AND METHODOLOGY

By letter dated May 29, 1985, the Chairman, Senate Judiciary Subcommittee on Security and Terrorism, requested that we review the feasibility of assigning responsibility for the Federal Bureau of Investigation's (FBI) Unlawful Flight to Avoid Prosecution (UFAP) program to the U.S. Marshals Service. He provided a Department of Justice, Justice Management Division, internal audit report (report 4-812, dated August 1984) which he said seemed to suggest that the Marshals Service could perform the function of fugitive apprehension at less cost than the FBI. During subsequent discussions with Subcommittee representatives, we learned that the Chairman's primary concerns were that (1) the Marshals Service could perform the UFAP program at less cost than the FBI and (2) transferring the program could free FBI resources to work on higher priority matters such as terrorism and foreign counterintelligence.

We initially reviewed the Justice internal audit report and available background material on the FBI and the Marshals Service fugitive activities and interviewed officials of the Justice Department's Justice Management Division, the FBI, and the Marshals Service. We discussed this work with Subcommittee representatives in September 1985 and it was agreed that we would limit our work to addressing the Chairman's two primary concerns as well as the arguments raised by FBI officials against transferring the program to the Marshals Service. Also, it was decided that an official Department of Justice position should be obtained on whether the UFAP program should be transferred. The Department of Justice had not taken a formal position on recommendations contained in the audit report. On September 26, 1985, and again on January 15, 1986, the Chairman, Senate Judiciary Subcommittee on Security and Terrorism, requested the Attorney General to provide his position on transferring the UFAP program from the FBI to the Marshals Service and other information related to this issue. The Deputy Attorney General provided the Department's position by letter dated February 19, 1986.

We performed our work from June 1985 to June 1986, principally at FBI and Marshals Service headquarters. We interviewed FBI and Marshals Service officials and reviewed available policy guidance and reports on staffing, cost, and workload matters. Some of the material we obtained was not readily available but was developed by the agencies at our request. For example, we requested the FBI to provide examples of UFAP cases to support seven of the arguments it had raised against transferring the UFAP program.

We also visited the FBI field office in Baltimore, Maryland, and Marshals Service district offices in Baltimore, Maryland, and Alexandria, Virginia. We visited these offices to obtain general information on fugitive operations and on the extent to which fugitive case files contain information relating to the arguments raised by the FBI. These offices were selected because of their location, organizational structure, and fugitive workload. We also interviewed other criminal justice system officials within these geographical areas about FBI and Marshals Service fugitive operations. These included representatives from the

--Baltimore, Maryland, Police Department;

--Prince George's County (Maryland) Police Department;

--Maryland State Police;

--Maryland State Attorney's Office;

--U.S. District Court of Maryland;

--Administrative Office of the U.S. Courts;

--U.S. attorney offices in the District of Columbia, Maryland, and the Eastern District of Virginia;

--U.S. Parole Commission; and

--U.S. Probation Office, District of Maryland.

We also interviewed the Justice auditors responsible for the 1984 audit report and reviewed the workpapers used to support the report.

BACKGROUND

Currently, the FBI and the Marshals Service have primary responsibility for federal efforts to apprehend fugitives. The FBI's fugitive program, which is one of 11 FBI investigative programs, involves UFAP fugitives and fugitives who by agreement with other agencies are pursued by the FBI. The Marshals Service is responsible for apprehending, principally, federal prison escapees, bond defaulters, and parole and probation violators.

The present distribution of fugitive investigative responsibility between the FBI and the Marshals Service is based on a 1979 agreement. Although the Marshals Service has always had statutory responsibility to execute federal arrest warrants, prior to 1979 it did not have departmental authority to investigate fugitive cases. As a result, its fugitive efforts were limited, involving only those cases referred specifically to the Service by the courts or undertaken as thought appropriate by individual U.S. Marshals. In 1979, at the request of the FBI, the Attorney General transferred primary responsibility for fugitive cases involving federal prison escapees, bond defaulters, and parole and probation violators to the Marshals Service. This was done to free FBI resources for higher priority work.

In 1982, FBI officials proposed amending the 1979 agreement so that the FBI would have exclusive investigative responsibility for many of the fugitive cases that were transferred to the Marshals Service in 1979. These included fugitives who were originally the subject of an FBI investigation or who committed additional federal crimes for which the FBI had investigative jurisdiction. Marshals Service officials made a counterproposal that responsibility for the UFAP program be given to them. Neither agency agreed to the other's proposal so the current distribution of responsibility is the same as the FBI and the Marshals Service agreed to in 1979.

In 1983, the Justice Department's auditors reviewed the fugitive apprehension activities of the FBI and the Marshals Service to, among other things, determine whether these activities should be redistributed to enhance the Department's effectiveness and efficiency. In their August 1984 report, they concluded that both the FBI and the Marshals Service were making effective use of their resources in pursuing fugitives. Further, they noted that in view of the Service's lower costs, transferring the UFAP program to the Service might produce cost savings. However, while they concluded that the Marshals Service could handle the UFAP program, they noted that the Service would require more resources and improvements in its case management and reporting procedures. Consequently, the auditors recommended that Justice delay any decision to transfer the UFAP program until

--a full assessment was made of what additional resources the Marshals Service would need to perform UFAP and its other investigations and

--an analysis was made of what it would cost the Marshals Service to manage the UFAP program at the same level of effectiveness as the FBI.

When we started our work in June 1985, the Department of Justice had not responded to the recommendations made by the internal auditors. We suggested to Subcommittee representatives that the Chairman seek the Department's position on the recommendations in the report and the feasibility of transferring the UFAP program. The Chairman requested Justice's position in letters to the Attorney General dated September 26, 1985, and January 15, 1986.

The Deputy Attorney General responded with the Department's position in a letter to the Chairman dated February 19, 1986. He noted that Justice opposed transferring the UFAP program because

--the FBI's UFAP record over 50 years has been impressive;

--FBI agents are well suited by education, training, experience, organization, and support systems to carry out complex and demanding assignments such as UFAP investigations; and

--FBI agents collect physical and testimonial evidence which can be important at a fugitive's trial.

The Deputy Attorney General said that in view of the FBI's continuing good record, there were no compelling reasons to transfer the UFAP program. He also said that any estimates on how much it would cost and the number of staff the Marshals Service would need to manage the UFAP program would be speculative and artificial given the Department's opposition to the transfer.

Concerning the Chairman's question on the use of FBI resources which would be freed up if the UFAP program were transferred, the Deputy Attorney General said that those resources would be reallocated to programs which needed them unless the FBI's appropriations were reduced. However, he declined to identify the specific programs which would receive the allocations. Over the last several years, the FBI has requested additional positions to carry out its investigative programs. For example, in its fiscal year 1987 budget request, the FBI requested an additional 776 positions to perform its work.

FBI FUGITIVE INVESTIGATIONS

The UFAP program allows the federal government to assist state and local jurisdictions with capturing their fugitives who have fled prosecution, custody, confinement, or giving testimony. Once a state or local fugitive has fled the state which issued the original arrest warrant, the person can be charged under the Fugitive Felon Act (18 U.S.C. 1073, 1074) with the federal crime of unlawful flight.[1] Upon the issuance of a UFAP warrant, the FBI has authority to conduct an investigation.

To obtain a UFAP warrant, the jurisdiction issuing the original warrant must apply to the U.S. attorney in its district. The jurisdiction must (1) show "probable cause" that the fugitive fled the state and (2) agree to pay extradition costs and to prosecute the fugitive upon apprehension before the U.S. attorney will apply for the warrant. A U.S. district judge or U.S. magistrate will determine if the standard of "probable cause" was met and a UFAP warrant should be issued. FBI officials told us that they actively seek UFAP cases by staying in contact with state or local officials and identifying cases which they believe warrant FBI assistance.

The FBI classifies UFAP fugitives into four categories based on the crimes they allegedly committed:

--violent crimes (e.g., murder and robbery);

--property crimes in excess of $25,000 and narcotics violations;

--parental kidnapping; and

--all other violations.

In fiscal year 1985, the FBI's fugitive program, which includes the UFAP investigations, accounted for an estimated 3 percent of the total FBI budget. The major components of the FBI's fiscal year 1985 budget were four national priority programs: foreign counterintelligence, organized crime, terrorism, and white-collar crime.

In fiscal year 1985, UFAP investigations accounted for about 81 percent of the estimated cost incurred and time spent by FBI field agents on all fugitive investigations. Domestic and foreign police cooperation activities and fugitive cases referred to the FBI by other federal agencies accounted for the remainder of the estimated cost incurred and agents' time spent on fugitive investigations.

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[1] Unlawful flight is punishable by a fine of up to $5,000, imprisonment of up to 5 years, or both. However, according to the FBI, federal prosecution is not expected to occur since the purpose of the act basically is to aid the states in the return of their fugitives for trial or confinement. According to FBI officials, no fugitives have been prosecuted for the federal crime of unlawful flight.

The FBI has 59 field offices and the organizational structure varies from office to office. According to FBI officials, the workload and size of an office largely determine the structure and composition of the office. Generally, the larger field offices have fugitive investigation squads. UFAP and other investigations are handled by these squads. Each squad is headed by a GS-14 supervisory special agent with squad members who are GS-10 through GS-13 agents.

In fiscal year 1985, the FBI spent an estimated 366 staff years on its fugitive program. Of these, 298 were spent on UFAP investigations. The 298 staff years expended on UFAP investigations included

--167 for field agent personnel,

--14 for field supervisory agent personnel,

--3 for headquarters management personnel,

--104 for field clerical support personnel, and

--10 for headquarters clerical support personnel.

Based upon fiscal year 1985 cost data supplied by the FBI, the estimated costs per staff year for the fugitive program and the UFAP program were $56,210 and $56,007, respectively (see app. VI). We estimated that during fiscal year 1985, the average basic salary for FBI field agents working on UFAP investigations was $32,695. This excludes the cost of overtime pay. FBI agents who are required to work more than 40 hours per week receive overtime pay in addition to their basic salary. The overtime amount ranges from 10 to 25 percent of the base salary of a GS-10, step 1 ($24,011 in 1985), based on the number of hours worked. For example, an agent who worked an average of 3 to 5 hours of overtime every week would be paid 10 percent of the GS-10 salary above his/her base salary. The maximum amount of overtime that an FBI agent can receive in a year is 25 percent of a GS-10, step 1. In 1985, this amounted to $6,003. To receive the maximum amount, an agent has to work an average of more than 9 overtime hours per week. However, an FBI agent's maximum salary, including overtime, cannot exceed the salary of a GS-15, step 10. In fiscal year 1985, this amounted to $67,940.

MARSHALS SERVICE FUGITIVE INVESTIGATIONS

The Marshals Service divides its fugitive program into two categories. The first category is felony cases where the Service has primary responsibility. These are designated Class I cases and include:

--prison escapees,

--bond defaulters,

--parole violators,

--probation violators, and

--fugitives from the court (bench warrants) and from agencies without power of arrest.

The second category, referred to as Class II cases, includes:

--felony warrants from other agencies with arrest powers,

--misdemeanor warrants, and

--parking and traffic warrants.

The Marshals Service also conducts fugitive investigations through its Fugitive Investigative Strike Team (FIST) operations. In 1981, the Service instituted the FIST program to apprehend a large number of felony fugitives in a short period of time with a limited amount of resources. The early FIST operations were targeted primarily at federal fugitives and were conducted by Marshals Service personnel. In 1982, the Service broadened the program, making it a cooperative effort with state and local law enforcement agencies to apprehend state and local as well as federal fugitives. The Marshals Service and the Justice Department regard FIST as a major tool for strengthening cooperation among federal, state, and local law enforcement agencies. As of June 10, 1986, the Marshals Service had conducted nine FIST operations in various parts of the country. Of the 14,770 fugitives apprehended, 1,258 (about 9 percent) were federal fugitives.

In fiscal year 1985, fugitive investigations accounted for about 13 percent of the total Marshals Service budget. The remainder of the Marshals Service budget was spent principally on judicial security, federal prisoner processing, witness security, and serving federal process (e.g., subpoenas). The Marshal Service estimates that about 92 percent of its fugitive investigative costs involve Class I and Class II felony cases.

The remaining 8 percent involve Class II traffic, parking, and misdemeanor cases.

The Marshals Service maintains warrant squads that are responsible for fugitive investigations in 27 (29 percent) of its 94 district offices. The other 67 district offices do not have separate warrant squads. All but two of the 67 district offices do, however, have at least one enforcement specialist assigned to fugitive investigations. Warrant squads are established in district offices where the volume of cases indicates a need for a squad. According to the Service's Associate Director for Operations, while the decision to use a warrant squad is left to each U.S. Marshal, the Marshals Service Director and his management officials can mandate that a squad be established if the need for one becomes evident. We were also told that each warrant squad is headed by a GS-11 enforcement specialist with squad members who are GS-11 criminal investigators and GS-9 deputy marshals.

In fiscal year 1985, the Marshals Service spent 343 staff years on fugitive investigations. Of these, 288 were spent on Class I and II felony investigations and 55 on other Class II investigations. The 288 staff years expended on Class I and II felony investigations included 215 for operational personnel (criminal investigators, deputy marshals, and field and headquarters supervisory personnel) and 73 for administrative personnel. Based upon fiscal year 1985 cost data supplied by the Marshals Service, the costs per staff year for the fugitive program and the Class I and II felony investigations were $53,213 and $58,611, respectively (see app. VI). We estimated that during fiscal year 1985, the average basic salary for criminal investigators and deputy marshals working on fugitive investigations was $25,466. This excludes the cost of overtime pay which, in contrast to the FBI's overtime pay, is determined using the time-and-a-half method for all extra hours worked. The overtime amount is computed at 150 percent of the salary rate of the person working the overtime if the person's grade is less than or equal to a GS-10, step 1 ($24,011 in 1985). If the person's grade is greater than GS-10, step 1, the overtime amount is limited to 150 percent of the GS-10, step 1 salary. In 1985, this amounted to $17.27 per hour. In addition, a criminal investigator/deputy marshal's maximum salary, including overtime, cannot exceed the salary of a GS-15, step 10. In 1985, this amounted to $67,940. If a criminal investigator/deputy marshal's average basic salary was $25,466 and he/she worked a total of 520 overtime hours in fiscal year 1985, his/her overtime pay would be $8,980 which is $2,977 higher than the overtime pay for an FBI agent whose basic salary was $32,695 and who worked the same number of overtime hours. The criminal investigator/deputy marshal's total pay would be $34,446 which is $4,252 less than the total pay of an FBI agent whose average basic salary was $32,695 and who worked the same number of overtime hours.

FUGITIVE WORKLOAD AND COST STATISTICS AND THEIR LIMITATIONS

As shown in table I.1, both the Marshals Service and the FBI closed about 53 percent of their UFAP and Class I fugitive cases that were open for part or all of fiscal year 1985 and spent about the same amount of money.

Table I.1:

FBI UFAP and Marshals Service Class I Fugitive Workloads and Costs For Fiscal Year 1985

	UFAP	Class I
1. Total cases open for part or all of year	4,369	19,239
2. Total cases closed during the year	2,303	10,271
Percentage (line 2 divided by line 1 x 100)	53	53
3. Cases closed with apprehension by the FBI and the Marshals Service and by other agencies with FBI or Marshals Service assistance	1,228	6,295[a]
Percentage (line 3 divided by line 2 x 100)	53	61
4. Total estimated costs (in thousands)	$16,690	$16,880[b]

[a] Includes the following Service case closure categories (see app. III for definitions): physical arrests, directed arrests, an estimated 50 percent of warrants forwarded, and surrenders.

[b] This represents about 92 percent of the total cost of the Marshals Service fugitive program. It includes the costs of Class II felony investigations and Class I felony investigations which, according to Service officials, cannot be segregated.

While the FBI and the Marshals Service spent about the same amount of money and closed the same percentage of cases,

--the number of Marshals Service open fugitive cases and the number the Service closed were more than four times the FBI's open and closed cases and

--a larger percentage of the Marshals Service case closures involved apprehensions by the Service and by other agencies with Service assistance than the FBI's case closures.

However, limitations in both the FBI and Marshals Service statistics as well as differences between their fugitive investigations preclude a true comparative analysis of the agencies' workloads, case closures, and costs. The comparison of workloads, case closures, and costs in table I.1 does not take into consideration the level of investigative effort required in these cases. For example, the Justice internal auditors pointed out that the UFAP cases were more complex since they generally involved more violent offenders and required substantially more investigative effort over a much larger geographic area than most of the Marshals Service cases. Following is a discussion of the limitations of both the FBI and Marshals Service workload, case closure, and cost statistics. Appendixes II through VI provide FBI and Marshals Service fugitive program workloads, case closures, and costs for fiscal years 1983 to 1985 and expected costs for fiscal years 1986 and 1987.

Workload statistics

Both the UFAP and Marshals Service Class I workload statistics overstate the number of fugitives pursued. The FBI may open a UFAP case before it receives a UFAP warrant based on contacts it has had with state and local law enforcement agencies. In fiscal year 1985, warrants were not received in 45 percent of the UFAP cases opened. If the FBI does not receive the UFAP warrant, the case is administratively closed with minimal or no investigative effort. In addition, the Justice auditors found the reported number of UFAP cases to be overstated. The auditors could not locate about 16 percent of the cases that were reported as having originated in the four FBI field offices included in their review. When the auditors reviewed a random sample of the cases they could locate, they found that 8 percent were not cases that originated in these offices, not UFAP cases, or were duplicate files. FBI officials and the Deputy Attorney General in his February 19, 1986, letter said that the problems noted by the internal auditors have been corrected and were the result of human error rather than the FBI's reporting system itself.

The Marshals Service workload statistics also overstate their workload. The statistics are based upon the number of warrants issued and not the number of fugitives the Service is responsible for apprehending. The Marshals Service sets up a case file for each federal warrant received from the courts. Thus, more than one case is opened when a single fugitive has multiple federal warrants and more than one case would be closed when the fugitive has been apprehended. The Service, however, is implementing a new information system (referred to as the warrant information network) which will count fugitives as well as warrants. Service officials expect the new system to be fully operational by October 1987.

Case closure statistics

Problems exist with both the FBI and Marshals Service case closure statistics in terms of identifying the number of fugitives who were actually apprehended and the role that the FBI or the Marshals Service played. These problems limit comparisons between the FBI and Marshals Service programs. Neither the FBI nor the Marshals Service statistics show the total number of cases in which the FBI or the Marshals Service played an assist role or no role in the fugitive apprehensions. Additionally, the Marshals Service's statistics do not show the total number of fugitives apprehended by the Service, while the FBI's statistics do show the total number apprehended by the FBI. The FBI's statistics do not show the total number of fugitives apprehended by both the FBI and others while the Marshals Service's statistics do.

Cost statistics

Limitations also exist on comparing FBI and Marshals Service cost statistics. Neither the FBI nor the Marshals Service can determine costs for individual fugitive investigations. Further, the FBI fugitive costs include actual personnel costs for headquarters personnel and field agents but estimated costs for all other personnel and support expenditures. The FBI UFAP costs include actual personnel costs for field agents only. The Marshals Service costs include actual personnel costs but estimated costs for support expenditures. In addition, according to Service officials, the Marshals Service costs cannot be segregated between Class I and Class II fugitive investigations. The Service enforcement operations chief had no statistical support but estimated that the Service spends about 92 percent of its fugitive investigative resources for Class I and II felony cases and about 8 percent on other Class II cases.

FBI ARGUMENTS AGAINST TRANSFERRING THE UFAP PROGRAM

At the outset of our review, FBI officials cited a number of arguments against transferring the UFAP program to the Marshals Service. The arguments, the views of Marshals Service officials, and other information we obtained on each argument are presented in the following sections.

Geographic coverage

FBI officials noted that the FBI has offices in more locations than the Marshals Service. They said that having more offices results in

--quicker access to more locations,

--cheaper access to more locations,

--the ability to conduct simultaneous investigations in a number of locations,

--more familiarity by FBI agents with their areas of operation, and

--better established working relationships with state and local law enforcement agencies.

The Marshals Service enforcement operations chief told us that most fugitives, including UFAP fugitives, are caught in major metropolitan centers where the Service has an office. He said that for cases requiring investigative work in locations where the Service does not have an office, the Service can either send deputy marshals from a nearby office or rely on state and local police assistance when it is vital to respond immediately. Further, he believes that while the FBI may have better geographic coverage than the Service has, not all FBI offices are staffed with agents experienced in fugitive investigations.

According to FBI officials, the FBI does not have statistics to show where UFAP fugitives are being caught; however, these officials believe that many fugitives are not caught in major metropolitan centers. They also said that most, if not all, FBI agents at one time or another have been involved in fugitive investigations.

During fiscal year 1985, the FBI had 59 field offices and 410 suboffices (referred to as resident agencies) compared to the Marshals Service's 94 district offices and 140 suboffices.[2] Our analysis of the FBI's and Marshals Service's office locations showed that the Service had a district office or suboffice in all locations where the FBI had a field office and in 148 of the 410 locations where the FBI had a resident agency. However, the FBI had 262 resident agencies located in geographic areas where the Marshals Service did not have offices. For example, in the western and southern parts of Colorado, the FBI had five resident agencies and the Service had no office. We also noted that the Marshals Service had 27 offices in locations where the FBI did not have offices.

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[2] The Marshals Service also had six suboffices that are staffed on a part-time basis. These offices were not included because they are only staffed when court is in session.

To determine the amount of UFAP investigative effort expended by the FBI in areas where the FBI had an office but the Marshals Service did not, we had the FBI extract from its time reporting system the UFAP time charged by each FBI office. According to the FBI, 245 of the 262 resident agencies in locations where the Marshals Service did not have an office provided data that showed that during fiscal year 1985, 81,152 of the 401,492 total hours charged FBI-wide to the UFAP program (20 percent) were by agents located in the 245 offices.

According to the Maryland state and Baltimore city police we interviewed, having a wide distribution of offices definitely benefits the FBI's operations. Further, the Justice internal auditors noted that, during their review, questions were raised regarding the Marshals Service's ability to investigate leads in remote areas.

24-Hour coverage

FBI officials noted that the FBI has 24-hour coverage in all of its offices, and the Marshals Service does not. FBI officials told us that FBI headquarters and field offices have a complaint agent or clerk present 24 hours a day and resident agencies have after-hours answering machines with prerecorded messages instructing callers to leave a message or telephone the nearest field office. A number is provided for the nearest field office. The field offices are to maintain a listing of agents who are on call in the field offices and resident agencies. Further, all FBI agents must be reachable on a 2-hour notice.

The FBI provided 11 examples of UFAP cases which illustrate the benefit of having 24-hour office coverage. For example, in one case, an FBI field office was notified of the fugitive's location at approximately 11:30 p.m., and the fugitive was arrested at 12:30 a.m.

The Marshals Service enforcement operations chief told us that the Service has 24-hour coverage in its offices. Since September 1985, an operations duty officer has been assigned to the headquarters communications center to address any operational problems which arise after normal business hours. Prior to that, after-hours telephone calls were handled by headquarters communications center staff who were responsible only for relaying messages to appropriate personnel. The center has available a directory listing the office and home telephone numbers of key district office officials. In addition to headquarters coverage, the Service enforcement operations chief told us that all district offices and suboffices are required to provide 24-hour coverage, with each office having either an answering service or machine (providing a toll-free number for the headquarters communications center, the district office number, and/or instructions to leave a message) or a call forwarding system to respond to after-hours calls.

Our work at the Alexandria and Baltimore Marshals Service district offices revealed that a beeper system was in place where key district office personnel could be reached after hours. The Service enforcement operations chief told us that he did not know how many other district offices have a similar system.

Our after-hours telephone calls to eight FBI field offices and seven resident agencies showed compliance with the FBI's 24-hour coverage policy. Our after-hours telephone calls to 10 Marshals Service district offices and two suboffices showed that four district offices and one suboffice were not in compliance with the Service's 24-hour coverage policy. Also, the prerecorded messages we heard at two offices did not provide the toll-free headquarters number.

Dual responsibilities

FBI officials noted that the dual responsibilities of the U.S. Marshals to the courts and to the Justice Department could adversely affect the Marshals Service's capability to pursue UFAP fugitives. FBI officials contend that the Marshals Service may not have adequate resources to perform both their court-related and fugitive investigative responsibilities effectively and that at any one time the staff assigned to fugitive investigations may be pulled to perform court-related duties. They said that because the Marshals Service does not have adequate resources, FBI agents are now serving subpoenas and transporting prisoners, functions which are primarily the responsibility of the Service.

Marshals Service officials told us that although the U.S. Marshals must be responsive to the demands of both the courts and the Justice Department, this relationship has not adversely affected the Service's capability to pursue their fugitives. However, the Director of the Marshals Service advised us that the Service needs additional resources to carry out its present responsibilities, especially with the passage of the Comprehensive Crime Control Act on October 12, 1984. The

Director also said that the Marshals Service would need more staff if the UFAP program were assigned to the Marshals Service.

In an earlier report, U.S. Marshals' Dilemma: Serving Two Branches of Government, (GGD-82-3, Apr. 19, 1982), we addressed the dual responsibility issue and concluded that because the marshals must respond to the competing demands of both the judiciary and executive branch, both the judiciary operations and the law enforcement area were adversely affected. We recommended that the Attorney General

--determine Marshals Service staff needs at each district office,

--establish court security and court-related duties as top priority activities, and

--assign law enforcement tasks based on resources remaining after fulfillment of court-related duties.

We also said that since the latter recommendation was likely to hinder Justice's ability to use marshals for law enforcement, the law enforcement duties should be reassigned from the Marshals Service to other Justice agencies. Further, we recommended that if Justice and the courts did not implement the above recommendations, the Congress should eliminate the Attorney General's authority to supervise, direct, and control U.S. Marshals.

Justice and the Administrative Office of the U.S. Courts disagreed with the report's conclusions and recommendations. Justice commented that dual authority is an illusory concept and that the existing operating problems were caused by inadequate funding. In response to Justice's comments, we noted that while inadequate resources contributed to the operating problems, the underlying cause was the dual authority relationship.

The Service enforcement operations chief also told us that cooperation between the courts and the Justice Department has allowed them to accomplish both of their missions. However, Marshals Service personnel at the two district offices we visited told us, and we observed at one of these offices, that if deputy marshals are needed in the courtroom, they are pulled from their other duties such as fugitive investigations.

According to Service officials, data are not readily available to show time spent by Marshals Service deputy marshals assigned to fugitive investigations on court-related duties. However, the supervisory deputy marshal assigned to the fugitive warrant squad in the Baltimore district office estimated that warrant squad personnel spend about 40 percent of their time on nonwarrant activities. The U.S. Marshal in the Alexandria district office which does not have a warrant squad estimated that deputy marshals in that office spend about 80 percent of their time on nonwarrant work, while deputy marshals in the Norfolk and Richmond suboffices spend about 60 percent and 40 percent of their time, respectively, doing nonwarrant work.

Legislation (S.2044 and H.R.4001) has been introduced which would strengthen the Department of Justice's control over the U.S. Marshals and deputy marshals. For example, the Marshals Service, not the U.S. Marshals, would have direct authority for selecting and appointing deputy marshals. Further, the Attorney General, not the courts, would have responsibility for establishing policies regarding court security work to be provided by the U.S. Marshals. Now, the U.S. Marshals may be required to attend any session of the courts at the discretion of the judges.

FBI officials told us that the FBI also has competing demands. Agents assigned to one program such as the UFAP program are sometimes pulled to work on other FBI investigations. A difference, however, is that these decisions are being made by FBI persons responsible for the various FBI programs whereas the U.S. Marshals are ultimately making decisions based on demands from both the Marshals Service and the courts.

Network of offices

FBI officials noted that FBI field offices are required to assist each other and that investigating UFAP cases requires a strong network of offices since by definition UFAP cases involve fugitives who have fled from one state to another. They believe that (1) most Marshals Service cases do not require work by district offices other than the one in which the case originated, (2) most Marshals Service fugitives are apprehended in the jurisdiction where the case originated, and (3) Marshals Service offices are independent and there is no guarantee that their efforts will be coordinated.

FBI statistics show that investigative work by assist offices (offices other than the one in which the case originated) is a substantial part of the UFAP workload. FBI field offices and resident agencies had 12,181 UFAP assist cases in fiscal year 1985. Also, the Justice internal auditors reported that 68 percent of the FBI UFAP apprehensions were made outside of the jurisdictions where the cases originated compared to 25 percent of the Marshals Service Class I apprehensions.

The Marshals Service enforcement operations chief told us that the Service district offices are not independent and are required by policy to assist each other on fugitive investigations. He said that the Service has a large number of cases requiring investigative work outside the originating district offices but could not tell us how many. According to Service officials, the Service's new information system will allow Service officials to determine the number of assist cases and to monitor compliance with the Service's assistance policy.

Our interviews with Marshals Service district office officials and a limited review of closed case files in the Alexandria district office indicate that Service offices assist each other and that fugitives are being apprehended outside of the jurisdictions where the case originated. For example, at the Alexandria office, our review of five closed cases which had originated in other offices showed (1) that the Alexandria office had done some investigative work on all five cases and (2) the involved fugitives were apprehended by offices other than the originating district office.

Both the Marshals Service and the FBI have policy guidance requiring their offices to provide requested assistance to other offices within specified time frames. These time frames vary depending on the type or urgency of the assistance needed. Marshals Service offices must cover and respond to telephonic (i.e., urgent) leads within a 24-hour time period. Routine requests to investigate leads transmitted by letter must be covered and responded to within 10 working days from date of receipt. The FBI's response time frames range from up to 22 calendar days for priority leads to a maximum of 37 calendar days for relatively low priority leads. However, these time frames can be extended or an FBI office can request that quicker attention be given to an urgent case.

FIST and "flying squads"

FBI officials noted that the Marshals Service's FIST program and "flying squads" (i.e., mobile task forces) may not be sound approaches for UFAP investigations. They believe that the FIST operations are not suitable for apprehending violent criminals because these criminals are less likely than others to fall for FIST scams, i.e., gimmicks or sting-type operations used to locate and lure fugitives. Further, they believe that "flying squads" would be too costly and impractical to use on a massive scale for UFAP investigations.

The Marshals Service enforcement operations chief told us that the FIST program and "flying squads" are not used for the majority of the Service's fugitive investigations and would not be routinely used for UFAP investigations either. He also noted that FIST operations consist principally of routine investigative work, i.e., developing and tracking leads, and that scams play only a small role in FIST operations. He also told us that violent criminals are apprehended through FIST operations. According to Marshals Service statistics, as of June 10, 1986, armed and dangerous criminals accounted for about 33 percent of all FIST arrests.

Concerning the use of a "flying squad" approach, the Marshals Service enforcement operations chief told us that this approach is used only in high visibility cases (e.g., the Service's 15 most-wanted cases). He believes that if the Service had responsibility for the UFAP program the mobile task force also would only be used in high visibility or priority cases. In this regard, FBI officials told us that they also use a "flying squad" type approach for high visibility UFAP cases.

Repeat fugitives

FBI officials noted that their detailed case file documentation facilitates capture of criminals previously investigated by the FBI. They noted that the Marshals Service does not maintain detailed case files, a fact which could hamper the Service's ability to investigate UFAP fugitives who were subjects of previous investigations. They told us that the FBI can identify prior involvement with fugitives through its computer data bank of criminal histories, backed up by detailed case files. FBI officials could not identify the number of UFAP fugitives-that were previously investigated by the FBI but did provide an example of a UFAP case which illustrates how detailed case file documentation can facilitate capture of criminals previously investigated by the FBI. In that case, information regarding the fugitive's relatives was obtained from a previous UFAP case file. As a result of this information, the fugitive was apprehended by the FBI.

The Marshals Service enforcement operations chief told us that while problems exist with the Service's fugitive investigative documentation, they do not start from scratch when investigating fugitives who were subjects of previous investigations. He noted that information developed during the prior investigations, such as names of relatives, is available and that it is standard procedure to check out such leads.

The Justice internal audit report noted that the Marshals Service's case files contained incomplete details about their fugitive investigations. The audit report stated that incomplete investigative details reduced the utility of the case files in future investigations of the same fugitive. The audit report also indicated that the FBI's case files contained enough data to facilitate future investigations of the same fugitive.

In fact, the auditors noted that the FBI maintains too much information.

State and local prosecution

FBI officials noted that FBI agents develop information during UFAP investigations that can be used to support state and local prosecution of fugitives. They told us that the Marshals Service normally does not interview fugitives after apprehension or provide testimony at fugitive trials unlike the FBI.

FBI policy requires agents to interview UFAP fugitives after apprehension and notify the wanting state or local authorities of the information obtained. FBI officials told us and we observed at the FBI Baltimore field office that the results of these interviews are documented in the UFAP case files. Although prosecutive reports are not generally required, a report will be prepared if requested. FBI officials told us that the FBI does not maintain statistics on the number of prosecutive reports prepared as a result of their fugitive investigations.

FBI officials also told us that agents are often asked to testify at the state and local trials of the fugitives. Statistics are not available on how often FBI agents have testified concerning their UFAP investigations.

The FBI prepares an accomplishment report when a significant contribution is made to a successful local prosecution. In fiscal year 1985, there were 17 such accomplishments which represent about 1 percent of the FBI's UFAP arrests and "locates." In fiscal years 1983 and 1984, the FBI claimed nine and seven accomplishments, respectively.

The FBI provided 41 examples of UFAP cases which illustrate how information developed during UFAP investigations can assist state and local prosecution. For example, in one case, an FBI agent obtained a confession from the fugitive and later testified at the local murder trial where the fugitive was convicted.

The Marshals Service enforcement operations chief told us that this argument is irrelevant because the unlawful flight charges are rarely prosecuted and prosecution of the state and local charges is the responsibility of state and local authorities. He said that deputy marshals do interview fugitives upon arrest in those jurisdictions where the fugitive is likely to be prosecuted and in cases where there are indications of other criminal activity. He also said that in some cases deputy marshals also prepare prosecutive reports and provide testimony. Statistics are not available on how often deputy marshals prepare prosecutive reports or testify concerning their fugitive investigations. The Marshals Service did, however, provide an example of a fugitive case which illustrates that deputy marshals prepare prosecutive reports and provide testimony. In that case, based on their investigative work, deputy marshals prepared two prosecutive reports and later testified at the trial where the fugitive and others were convicted.

Special equipment and resources

FBI officials noted that the FBI has special equipment and resources readily available at FBI headquarters and field offices which can facilitate location and apprehension of UFAP fugitives. They believe that the Marshals Service district offices generally lack the special, sophisticated surveillance equipment such as electronic listening devices and specially equipped surveillance vehicles that FBI field offices already maintain for investigative work. They also noted their up-to-date laboratories and behavioral science unit which has developed psychological profiles that have facilitated the apprehension of top ten fugitives. FBI officials believe that if given responsibility for the UFAP program, the Marshals Service would need to acquire more special investigative equipment, but because the equipment would not generally be needed for the Service's noninvestigative programs, the equipment would not be utilized often enough to justify the acquisition costs. The FBI's special equipment, on the other hand, can be used across all FBI programs and can therefore be considered a cost-effective resource for use in UFAP cases.

The Marshals Service enforcement operations chief told us that the Service has, or could borrow from other law enforcement agencies, any special equipment needed to do fugitive investigations. He said that budget constraints limit the amount of special investigative equipment available for fugitive work but that special equipment is available from headquarters to district offices upon request. Urgent requests are met using courier or messenger service, air freight, or Service aircraft. He believes, moreover, that while the FBI may have more special equipment than the Marshals Service, the competing demands of other FBI programs may limit the availability of the equipment for the UFAP program.

Maryland state police as well as deputy marshals we interviewed told us that for most fugitive investigations, special equipment is not usually necessary. FBI officials told us that no statistics exist to show how often special investigative equipment or resources are used in UFAP investigations. The FBI did provide, however, 14 examples of UFAP cases which illustrate the use of special equipment and resources in UFAP investigations. For example, in one case, an FBI field office used an airplane for surveillance and a special weapons and tactics team to apprehend the fugitive.

Mobilization

FBI officials noted that the FBI has more staff than the Marshals Service and thus a greater ability to mobilize resources to pursue hot leads or work on high priority UFAP cases. As of May 31, 1986, the FBI had about 9,000 agents, and the Marshals Service had about 1,800 criminal investigators and deputy marshals. FBI officials told us that UFAP investigations can at times require more resources than are currently assigned to the UFAP program. The supervisory agent in the field office can pull resources from other FBI investigative programs to assist with the UFAP investigations when needed. According to these officials, no information exists to show how often these situations occur.

The Marshals Service enforcement operations chief told us that the Service also can mobilize additional resources to work on fugitive investigations. He also said that the Service needs more people to do its existing fugitive work.

A Baltimore city police official who has worked with both the FBI and the Marshals Service told us that if a situation arises warranting immediate action, the FBI can commit the necessary resources whereas the Service cannot.

Identification of other crimes

FBI officials noted that UFAP investigations often lead to the identification of other crimes. These are other than the state or local charge from which the person is fleeing and the federal charge of unlawful flight. FBI officials said that their agents look for other crimes and are more apt to identify them than the Marshals Service, which is more oriented towards "finding the body." FBI officials believe that the Marshals Service does not glean all possible leads, information, or informants from its fugitive investigations.

FBI officials stated that UFAP investigations keep FBI agents on the street where they can obtain information which can lead to the identification of other crimes as well as benefit other ongoing FBI investigations. According to these officials, FBI agents routinely interview captured fugitives which sometimes results in the identification of other crimes or leads in other FBI investigations. The FBI provided 42 examples of UFAP cases which illustrate the identification of other crimes in UFAP investigations. For example, one fugitive confessed to two previously unsolved homicides while being interviewed by FBI agents after his apprehension.

The Marshals Service enforcement operations chief told us that the Service's policy is to be alert to other crimes and to pass information obtained through its fugitive investigations along to the appropriate law enforcement agency. For example, he said that during an investigation involving two prison escapees, Marshals Service personnel developed information that the two escapees were committing armed bank robberies and passed that information along to both the local police and the FBI. As stated previously, he said that deputy marshals interview fugitives upon their apprehension in jurisdictions where the fugitive is likely to be prosecuted and in cases where there are indications of other criminal activity. Also, this official noted that deputy marshals often learn about other crimes while transporting prisoners in the Service's National Prisoner Transportation System or performing jail-related duties.

Development of informants

FBI officials noted that UFAP investigations allow them to develop informants useful to other FBI investigative programs. They believe that UFAP investigations provide more leads, more contacts, and more daily street presence than most other types of FBI investigations. This results in the development of many informants. FBI officials consider the UFAP program one of the most fertile grounds for informant development.

Marshals Service officials told us that the Service also develops informants through its fugitive investigations. Further, deputy marshals also develop informants from their contacts with prisoners while transporting them to and from jail or court. According to the Marshals Service fiscal year 1987 budget request, the Service paid 98 informants a total of $62,843, resulting in 61 arrests in fiscal year 1985.

Both the FBI and Marshals Service maintain separate informant files. According to FBI officials and the Marshals Service enforcement operations chief, how the informant was developed cannot be determined from the separate informant files or the fugitive case files. The FBI provided 26 examples which illustrate that informants are developed from UFAP cases. For example, a person who provided information that led to the arrest of a UFAP fugitive was officially designated as an informant and throughout the past 5 years has provided, according to the FBI, invaluable information about drug matters, local homicides, and armed robberies.

Training

FBI officials noted that UFAP investigations provide good training for FBI agents. They contend that UFAP cases provide FBI agents a perspective on the entire investigative process in a short period of time.

We noted that there is no FBI policy requiring that agents be assigned to work UFAP cases at one time or another during their careers. Also, no information exists to show how many FBI agents have worked on UFAP investigations. However, FBI officials told us that most, if not all, agents have been involved in fugitive investigations at one time or another.

The Marshals Service enforcement operations chief told us that UFAP investigations would provide good training for deputy marshals also.

Morale

FBI officials noted that UFAP investigations are a morale boost for FBI agents. They said that UFAP investigations provide tangible accomplishments for agents in a shorter time period than most other FBI programs.

No statistics were available to show that UFAP apprehensions are made or cases are closed more quickly than those in other FBI programs. Nor was any information available to show how many agents work on UFAP investigations at some time during their careers. However, according to FBI records, about 44 percent of all FBI agents spent time on UFAP investigations during fiscal year 1985.

The Marshals Service enforcement operations chief noted that the UFAP investigations would be a morale boost for deputy marshals also.

State and local police assistance

FBI officials noted that the UFAP program allows the FBI to maintain contact with and "pay back" state and local law enforcement agencies on a continuing basis. They believe that this strengthens the FBI's working relationships with these agencies which facilitates other FBI investigations. FBI officials also believe that unlike other major investigative programs such as organized crime and terrorism, UFAP investigations put the FBI in day-to-day contact with street crime activity and state and local law enforcement agencies. According to the FBI Director, the UFAP program has been the one important link with state and local law enforcement agencies that helps the FBI to maintain a vital two-way relationship. FBI officials believe that the UFAP program provides the FBI with opportunities to meet the Department of Justice's priority for providing assistance to state and local efforts against violent crime.

The Marshals Service enforcement operations chief told us that the Service also needs to maintain contact with and "pay back" state and local law enforcement agencies. He said that, among other things, state and local law enforcement agencies assist the Marshals Service by providing help in the Service's fugitive investigations and by housing federal prisoners in their jails. The official noted that although state and local agencies are paid for housing federal prisoners in their jails, they believe that additional payback is needed.

FBI officials noted that the Marshals Service already has a vehicle to maintain contact with and "pay back" state and locals agencies--its FIST operations. We noted, however, that FIST operations have not been conducted extensively in every state but only in selected locations for periods of time ranging from 6 to 11 weeks. The Marshals Service also has the Cooperative Agreement Program which provides funds to state and local agencies to renovate or build jails in exchange for the housing of federal prisoners.

We noted that the FBI also has means other than the UFAP program to "pay back" and maintain relations with state and local agencies. For example, the FBI Director has noted that the FBI's National Academy provides training to state and local law enforcement officers which provides the FBI with an excellent liaison relationship with state and local agencies. This training has been provided to state and local agencies at no cost. However, beginning in fiscal year 1987, the FBI will charge state and local officers for the cost of their meals and lodging while at the Academy and not pay their travel expenses.

VIEWS OF OTHER CRIMINAL JUSTICE SYSTEM OFFICIALS

Overall, other criminal justice system officials we interviewed had mixed views about transferring the UFAP program to the Marshals Service. However, they generally (1) considered the FBI to be a better trained, equipped, and experienced agency and (2) believed that the Marshals Service would need more people. A frequently cited view was, "If it's not broken, don't fix it."

FBI AND MARSHALS SERVICE FUGITIVE CASELOADS

(FISCAL YEARS 1983-1985)

Marshals Service Fugitive Cases

FY 1983

	Class I	Class II Felony a/	Class II Other	Total
Pending cases (Oct. 1)	8,932	11,252	23,256	43,440
Cases opened	11,500	22,328	41,859	75,687
Cases closed	12,188	22,565	47,575	82,328
Pending cases (Sept. 30)	8,244	11,015	17,540	36,799
Percentage change	-8%	-2%	-25%	-15%

FY 1984

	Class I	Class II Felony a/	Class II Other	Total
Pending cases (Oct. 1)	8,244	11,015	17,540	36,799
Cases opened	10,354	23,072	33,025	66,451
Cases closed	10,304	21,298	34,003	65,605
Pending cases (Sept. 30)	8,294	12,789	16,562	37,645
Percentage change	+1%	+16%	-6%	+2%

FY 1985

	Class I	Class II Felony a/	Class II Other	Total
Pending cases (Oct. 1)	8,294	12,789	16,562	37,645
Cases opened	10,945	25,465	40,037	76,447
Cases closed	10,271	23,325	38,325	71,921
Pending cases (Sept. 30)	8,968	14,929	18,274	42,171
Percentage change	+8%	+17%	+10%	+12%

a/The Marshals Service Class II felony category, according to Service criteria, includes UFAP warrants.

b/Less than 1 percent.

FBI Fugitive Cases

FY 1983

	UFAP	Other Fugitive	Total
Pending cases (Oct. 1)	1,958	657	2,615
Cases opened	2,343	1,518	3,861
Cases closed	2,370	1,500	3,870
Pending cases (Sept. 30)	1,931	675	2,606
Percentage change	-1%	+3%	b/

FY 1984

	UFAP	Other Fugitive	Total
Pending cases (Oct. 1)	1,931	675	2,606
Cases opened	2,522	1,296	3,818
Cases closed	2,491	1,352	3,843
Pending cases (Sept. 30)	1,962	619	2,581
Percentage change	+2%	-8%	-1%

FY 1985

	UFAP	Other Fugitive	Total
Pending cases (Oct. 1)	1,962	619	2,581
Cases opened	2,407	1,262	3,669
Cases closed	2,303	1,271	3,574
Pending cases (Sept. 30)	2,066	610	2,676
Percentage change	+5%	-1%	+4%

FBI AND MARSHALS SERVICE FUGITIVE CASE CLOSURES (FISCAL YEARS 1983-1985)

Marshals Service Fugitive Cases

FY 1983

	Class I	Class II Felony	Class II Other	Total
Physical arrests	4,383	3,740	6,691	14,814
Surrenders	546	1,741	3,747	6,034
Warrants forwarded	1,773	2,831	6,640	11,244
Detainers	2,387	1,258	138	3,783
Directed arrests	923	658	1,131	2,712
Other agency	418	8,043 a/	2,273	10,734
Dismissals	1,758	4,294	26,955	33,007
Total	12,188	22,565	47,575	82,328

FY 1984

	Class I	Class II Felony	Class II Other	Total
Physical arrests	4,060	3,215	6,109	13,384
Surrenders	487	2,068	4,246	6,801
Warrants forwarded	1,712	2,914	1,480	6,106
Detainers	1,635	1,205	162	3,002
Directed arrests	865	980	837	2,682
Other agency	345	8,513 a/	2,639	11,497
Dismissals	1,200	2,403	18,530	22,133
Total	10,304	21,298	34,003	65,605

FY 1985

	Class I	Class II Felony	Class II Other	Total
Physical arrests	4,000	3,060	8,213	15,273
Surrenders	574	1,739	3,185	5,498
Warrants forwarded	1,690	2,835	1,846	6,371
Detainers	1,667	1,236	238	3,141
Directed arrests	876	785	745	2,406
Other agency	523	11,178 a/	2,041	13,742
Dismissals	941	2,492	22,057	25,490
Total	10,271	23,325	38,325	71,921

FBI Fugitive Cases

FY 1983

	UFAP	Other Fugitive	Total
Arrests	682	84	766
Locates	477	91	568
Administrative/ other closings	1,231	1,325	2,556
Total	2,390	1,500	3,890

FY 1984

	UFAP	Other Fugitive	Total
Arrests	696	64	760
Locates	419	47	466
Administrative/ other closings	1,376	1,241	2,617
Total	2,491	1,352	3,843

FY 1985

	UFAP	Other Fugitive	Total
Arrests	781	92	873
Locates	447	50	497
Administrative/ other closings	1,075	1,129	2,204
Total	2,303	1,271	3,574

a/Other agency arrests under the Marshals Service Class II felony category would, according to Service criteria, include UFAP arrests by the FBI.

Definitions of FBI and Marshals Service Case Closure Categories

FBI Closure Categories

Arrests: FBI personnel directly arrest the fugitive, either alone or in conjunction with other law enforcement agencies.

Locates: Another law enforcement agency arrests a fugitive based on FBI-provided information (including data from the National Crime Information Center) or the FBI locates the fugitive in the custody of another law enforcement agency on an unrelated offense.

Administrative/Other Closings: Cases where a UFAP warrant is never issued, cases resulting in dismissals, and cases where the arrest is made by another law enforcement agency without FBI assistance.

Marshals Service Closure Categories

Physical Arrests: Arrests made by Marshals Service personnel on warrants originating in their own district.

Surrenders: Arrests where fugitives voluntarily turn themselves into the Marshals Service and other law enforcement agencies.

Warrants Forwarded: Cases where the fugitive is captured by the Marshals Service or state or local police outside of the district originating the federal warrant.

Detainers: Cases where the state or local police capture a Marshals Service fugitive within the district where the federal warrant originated and the Marshals Service files a detainer.

Directed Arrests: Arrests made by other law enforcement agencies as a result of information provided by the Marshals Service including data from the National Crime Information Center.

Other Agency: Arrests made by other law enforcement agencies without Marshals Service assistance.

Dismissals: Cases where the federal warrant is dropped.

FBI AND MARSHALS SERVICE FUGITIVE PROGRAM COSTS

FISCAL YEARS 1983-1987 (in millions)a/

	FBI				
	FY 83	FY 84	FY 85	FY 86	FY87
UFAP	$13.9	$15.3	$16.7	$19.4	$22.0
Other fugitive	2.6	2.8	3.9	4.5	5.1
Total	$16.5	$18.1	$20.6	$23.9	$27.0 b/

	Marshals Service				
	FY 83	FY 84	FY 85	FY 86	FY87
Class I and II felony	$13.3	$14.0	$16.9	$17.0	$17.3
Class II other	1.2	1.2	1.4	1.3	1.4
Total c/	$14.5	$15.2	$18.3	$18.3	$18.7

a/According to FBI officials, total fugitive costs for fiscal years 1983 to 1985 include actual costs for field agents and headquarters personnel and estimated costs for all other personnel and support expenditures. However, UFAP and other fugitive costs include actual costs for field agents only. According to Marshals Service officials, total Service costs include actual personnel costs and estimated costs for support expenditures. For fiscal years 1986 and 1987, FBI and Marshals Service costs are estimated based on budget submissions. The allocation of Marshals Service costs among the felony cases and Class II other cases are based on estimates provided by the Service.

b/Column does not add due to rounding.

c/These totals contain the costs of Marshals Service Fugitive Investigative Strike Team (FIST) operations. FIST accounted for $0.9, $2.2, and $5.7 million in fiscal years 1983, 1984, and 1985, respectively.

FBI AND MARSHALS SERVICE FUGITIVE PROGRAM COSTS BY BUDGET OBJECT CLASS FOR FISCAL YEAR 1985 (in thousands)

	FBI a/			Marshals Service b/		
Budget Object Class	UFAP	Other Fugitive	Total Fugitive	Class I & II Felony	Class II Other	Total Fugitive
Personnel compensation	$10,768	$2,518	$13,286	$9,081	$962	$10,043
Personnel benefits	1,508	347	1,855	1,762	93	1,855
Travel	797	184	981	1,072	56	1,128
Transportation	132	31	163	82	4	86
Standard level user charge/rents	1,305	301	1,606	2,204	116	2,320
Printing	2	0	2	95	5	100
Other services	1,432	330	1,762	1,988	105	2,093
Supplies	456	105	561	195	10	205
Equipment	282	65	347	398	21	419
Insurance claims	8	2	10	3	0	3
Total	$16,690	$3,883	$20,573	$16,880	$1,372	$18,252

a/ According to FBI officials, total fugitive costs include actual personnel costs for field agents and headquarters personnel and estimated costs for all other personnel and support expenditures. UFAP and other fugitive costs include actual personnel costs for field agents only.

b/ According to Marshals Service officials, these costs include actual personnel costs and estimated costs for support expenditures. The allocation of costs among the felony cases and Class II other cases are based on estimates provided by the Marshals Service.

FBI AND MARSHALS SERVICE ESTIMATED SALARY AND NONSALARY COSTS PER STAFF YEAR FOR FISCAL YEAR 1985

	FBI		Marshals Service		Difference
Total fugitive programs	Cost	Percent	Cost	Percent	
Salary	$36,300	64.6	$29,280	55.0	-$7,020
Nonsalary	$19,910	35.4	$23,933	45.0	+$4,023
Total	$56,210	100.0	$53,213	100.0	-$2,997
FBI UFAP and Marshals Service felony fugitives only					
Salary	$36,134	64.5	$31,531	53.8	-$4,603
Nonsalary	$19,873	35.5	$27,080	46.2	+$7,207
Total	$56,007	100.0	$58,611	100.0	+$2,604

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